

EXHIBIT 19

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

UNITED STATES OF AMERICA, :
et al., :
 :
Plaintiffs :
 :
v. : No. 1:23-cv-00108
 :
GOOGLE, LLC, :
 :
Defendants. :

Friday, August 18, 2023

Video Deposition of COL. JOHN HORNING,
taken at the Law Offices of Paul, Weiss,
Rifkind, Wharton & Garrison LLP, 2001 K St NW,
Washington, DC, beginning at 9:34 a.m. Eastern
Standard Time, before Ryan K. Black, Registered
Professional Reporter, Certified Livenote
Reporter and Notary Public in and for the
District of Columbia

Job No. CS6060378

<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES:</p> <p>2</p> <p>3 UNITED STATES DEPARTMENT OF JUSTICE</p> <p>4 ANTITRUST DIVISION</p> <p>5 BY: JIMMY MCBIRNEY, ESQ.</p> <p>6 CHASE PRITCHETT, ESQ.</p> <p>7 ALVIN CHU, ESQ.</p> <p>8 MARK SOSNOWSKY, ESQ. - Via Zoom</p> <p>9 KATHERINE CLEMONS, ESQ - Via Zoom</p> <p>10 450 5th Street, N.W</p> <p>11 Washington, DC 20530</p> <p>12 202.514.2414</p> <p>13 jimmy.mcbirney@usdoj.gov</p> <p>14 chase.pritchett@usdoj.gov</p> <p>15 alvin.chu@usdoj.gov</p> <p>16 mark.sosnowsky@usdoj.gov</p> <p>17 katherine.clemons@usdoj.gov</p> <p>18 Representing - The United States of America</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23 PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP,</p> <p>24 BY: MARTHA L. GOODMAN, ESQ.</p> <p>25 LEAH HIBBLER, ESQ.</p> <p>2001 K St NW,</p> <p>Washington, DC</p> <p>202.223.7341</p> <p>mgoodman@paulweiss.com</p> <p>lhibbler@paulweiss.com</p> <p>Representing - Google LLC</p> <p>ALSO PRESENT:</p> <p>Glenn Fortner - Legal Videographer</p> <p>Major Mohamed Al-Darsani - United States Army</p> <p>Edwin Farley - USDOJ Intern</p>	<p style="text-align: right;">Page 4</p> <p>1 THE VIDEOGRAPHER: Good morning.</p> <p>2 We're going on the record at 9:34 on August 18th,</p> <p>3 2023. Please note that the microphones are</p> <p>4 sensitive and may pick up whispering and private</p> <p>5 conversations. Please mute your phones at this</p> <p>6 time. Audio and video recording will continue to</p> <p>7 take place unless all parties agree to go</p> <p>8 off the record.</p> <p>9 This is Media Unit 1 of the</p> <p>10 video-recorded deposition of Colonel John Horning</p> <p>11 in the matter of United States, et al., v. Google</p> <p>12 LLC. The location of the deposition is Paul</p> <p>13 Weiss.</p> <p>14 My name is Glenn Fortner, representing</p> <p>15 Veritext, and I'm the videographer. The court</p> <p>16 reporter is Ryan Black from the firm Veritext.</p> <p>17 I'm not related to any party in this action, nor</p> <p>18 am I financially interested in the outcome.</p> <p>19 If there are any objections to</p> <p>20 proceeding, please state them at the time of your</p> <p>21 appearance. Counsel and all present, including</p> <p>22 remotely, will now state their appearances and</p> <p>23 affiliations for the record beginning with the</p> <p>24 noticing attorney.</p> <p>25 MS. GOODMAN: Martha Goodman, from the</p>
<p style="text-align: right;">Page 3</p> <p>1 INDEX</p> <p>2 TESTIMONY OF: COL. JOHN HORNING PAGE</p> <p>3 By Ms. Goodman.....6, 244</p> <p>4 By Mr. McBirney.....245</p> <p>5 EXHIBITS</p> <p>6 EXHIBIT DESCRIPTION PAGE</p> <p>7 Exhibit 61 a privilege log dated June 26th,</p> <p>8 2023, provided by the United</p> <p>9 States DOJ.....11</p> <p>10 Exhibit 62 a document Bates Numbered</p> <p>11 ARMY-ADS336340 through 336638...154</p> <p>12 Exhibit 63 a document Bates Numbered</p> <p>13 ARMY-ADS329948 through 329970...165</p> <p>14 Exhibit 64 a document Bates Numbered</p> <p>15 ARMY-ADS187047 through 187077...211</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 5</p> <p>1 law firm Paul Weiss, on behalf of Google LLC.</p> <p>2 I'm joined by my colleague Leah Hibbler.</p> <p>3 MR. MCBIRNEY: Jimmy McBirney, with the</p> <p>4 Unites Staes Department of Justice, on behalf of</p> <p>5 the United States and the witness.</p> <p>6 MR. PRITCHETT: Chase Pritchett, on</p> <p>7 behalf of the United States.</p> <p>8 MR. CHU: Alvin Chu on behalf of the</p> <p>9 United States.</p> <p>10 MR. SOSNOWSKY: Mark Sosnowsky on behalf</p> <p>11 of the United States.</p> <p>12 MAJOR AL-DARSANI: Moe Al-Darsani,</p> <p>13 United States Army.</p> <p>14 MR. FARLEY: Edwin Farley, United</p> <p>15 States.</p> <p>16 THE VIDEOGRAPHER: Okay. Will the court</p> <p>17 reporter please swear in the witness and then</p> <p>18 counsel may proceed.</p> <p>19 MR. CHU: Oh, also, just to let you</p> <p>20 know, I have Katherine Clemons -- she'll be --</p> <p>21 from the DOJ that will also joining in and out.</p> <p>22 * * *</p> <p>23 Whereupon --</p> <p>24 COL. JOHN HORNING,</p> <p>25 called to testify, having been first duly sworn</p>

<p style="text-align: right;">Page 6</p> <p>1 or affirmed, was examined and testified as</p> <p>2 follows:</p> <p>3 * * *</p> <p>4 EXAMINATION</p> <p>5 BY MS. GOODMAN:</p> <p>6 Q. Good morning, Colonel Horning.</p> <p>7 A. Good morning.</p> <p>8 Q. Have you been deposed before?</p> <p>9 A. I have not.</p> <p>10 Q. Do you understand your purpose here</p> <p>11 today is to provide truthful and accurate</p> <p>12 testimony to the best of your testimony and</p> <p>13 knowledge?</p> <p>14 A. I do.</p> <p>15 Q. Is there any reason you cannot do that</p> <p>16 today?</p> <p>17 A. No.</p> <p>18 Q. Okay. Because the court reporter is</p> <p>19 writing everything down, it's important that we</p> <p>20 not talk over one another, so please let me</p> <p>21 finish my question before you begin your answer.</p> <p>22 Okay?</p> <p>23 A. Okay.</p> <p>24 Q. And because he's again taking a written</p> <p>25 transcript, the -- you have to speak verbally as</p>	<p style="text-align: right;">Page 8</p> <p>1 that.</p> <p>2 Q. Have you ever requested legal advice</p> <p>3 from the Department of Justice Antitrust</p> <p>4 Division?</p> <p>5 MR. MCBIRNEY: Objection. Calls for</p> <p>6 privileged information. Instruct the witness not</p> <p>7 to answer.</p> <p>8 MS. GOODMAN: You're asking him -- the</p> <p>9 information that would appear on a privilege log</p> <p>10 with a request for legal advice that's required</p> <p>11 for you as the privilege -- the party asserting a</p> <p>12 privilege to establish the proprietary of the</p> <p>13 privilege and meet your burden of proof and</p> <p>14 persuasion that the privilege applies, you're</p> <p>15 instructing him not to answer that question?</p> <p>16 MR. MCBIRNEY: You are asking the</p> <p>17 witness whether he has requested legal advice</p> <p>18 from the Department of Justice Antitrust</p> <p>19 Division?</p> <p>20 MS. GOODMAN: Yeah.</p> <p>21 MR. MCBIRNEY: You can answer that yes</p> <p>22 or no.</p> <p>23 THE WITNESS: No.</p> <p>24 BY MS. GOODMAN:</p> <p>25 Q. To what extent has anybody at the</p>
<p style="text-align: right;">Page 7</p> <p>1 opposed to with sounds like uh-huh or huh-uh</p> <p>2 so that it can be accurately reflected in the</p> <p>3 transcript. Okay?</p> <p>4 A. I understand.</p> <p>5 Q. If you don't understand my question,</p> <p>6 please let me know. Okay?</p> <p>7 A. Yes.</p> <p>8 Q. Otherwise I assume you'll understand.</p> <p>9 Okay?</p> <p>10 A. Yes.</p> <p>11 Q. In the normal course of your work, do</p> <p>12 you consider the Department of Justice Antitrust</p> <p>13 Division to be your counsel?</p> <p>14 A. I'm not sure that I'm qualified to</p> <p>15 answer, within the legal constructs of the U.S.</p> <p>16 government, who our actual counsel is or is not.</p> <p>17 Q. I'm not asking for you to provide a</p> <p>18 legal opinion. I'm asking for your personal</p> <p>19 understanding and your considerations, your</p> <p>20 personal opinions. So do you consider the</p> <p>21 Department of Justice Antitrust Division to be</p> <p>22 your counsel in the normal course of your work?</p> <p>23 A. I don't believe that I have a personal</p> <p>24 opinion on who our counsel is. I only know</p> <p>25 what's -- yeah. I -- I don't have an opinion on</p>	<p style="text-align: right;">Page 9</p> <p>1 Department of Justice ever asked you to provide</p> <p>2 information about the Army's advertising</p> <p>3 business?</p> <p>4 MR. MCBIRNEY: Objection. Privileged.</p> <p>5 Instruct the witness not to answer.</p> <p>6 BY MS. GOODMAN:</p> <p>7 Q. Are you going to follow that</p> <p>8 instruction, sir?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. When did you first have any</p> <p>11 conversations with anybody at the Department of</p> <p>12 Justice Antitrust Division?</p> <p>13 A. As best that I can recall, our first</p> <p>14 interaction would have been in early spring of</p> <p>15 2023 or late winter. I -- I can't recall the</p> <p>16 specific date.</p> <p>17 Q. So sometime between late winter of what</p> <p>18 year?</p> <p>19 A. 2023.</p> <p>20 Q. Okay. And early spring of 2023?</p> <p>21 A. Correct.</p> <p>22 Q. Okay. What was your understanding</p> <p>23 of the reason for your conversations with the</p> <p>24 Department of Justice Antitrust Division?</p> <p>25 MR. MCBIRNEY: Objection. Calls for</p>

<p style="text-align: right;">Page 10</p> <p>1 privileged information. Instruct the witness not</p> <p>2 to answer.</p> <p>3 BY MS. GOODMAN:</p> <p>4 Q. Are you following that instruction?</p> <p>5 A. Yes.</p> <p>6 Q. Has the Department of Justice ever</p> <p>7 requested information about digital advertising</p> <p>8 purchases by the United States Army?</p> <p>9 MR. MCBIRNEY: Objection. Calls for</p> <p>10 privileged information. Instruct the witness not</p> <p>11 to answer.</p> <p>12 BY MS. GOODMAN:</p> <p>13 Q. Are you following that instruction?</p> <p>14 A. Yes.</p> <p>15 Q. Do you -- in the course of your work,</p> <p>16 do you routine -- do you field requests for</p> <p>17 information from the Department of Justice on</p> <p>18 an ordinary basis?</p> <p>19 A. I do not.</p> <p>20 Q. Are you aware of anybody else within</p> <p>21 the AEMO who re -- regularly fields requests for</p> <p>22 information from the Department of Justice?</p> <p>23 A. I'm not personally aware of anything</p> <p>24 like that.</p> <p>25 MS. GOODMAN: I'm marking Exhibit 61, a</p>	<p style="text-align: right;">Page 12</p> <p>1 Q. I'm sorry. I meant Page 11.</p> <p>2 A. Okay.</p> <p>3 Q. It's line entry 23 on Page 11.</p> <p>4 A. Okay.</p> <p>5 Q. So one, two, three, four, five columns</p> <p>6 over, you're listed in the To column. Do you see</p> <p>7 that?</p> <p>8 A. I do.</p> <p>9 Q. And do you see the date in the few-more</p> <p>10 columns over of January 5th, 2023?</p> <p>11 A. Okay.</p> <p>12 Q. Does that refresh your recollection of</p> <p>13 the time period where you first had conversations</p> <p>14 with the Department of Justice Antitrust</p> <p>15 Division?</p> <p>16 A. Can you help me understand what it is</p> <p>17 I'm actually looking at here?</p> <p>18 Q. Yeah. So this is what's called a</p> <p>19 privilege log.</p> <p>20 A. I'm not familiar with what one of those</p> <p>21 are.</p> <p>22 Q. Okay. A privilege log is a</p> <p>23 document that parties are required to provide</p> <p>24 to the opposing side when they're asserting</p> <p>25 attorney-client or attorney work product or other</p>
<p style="text-align: right;">Page 11</p> <p>1 privilege log dated June 26th, 2023, provided by</p> <p>2 the United States in this litigation. I'm</p> <p>3 handing it to the witness.</p> <p>4 (Exhibit No. 61, a privilege log dated</p> <p>5 June 26th, 2023, provided by the United States</p> <p>6 DOJ, was introduced.)</p> <p>7 BY MS. GOODMAN:</p> <p>8 Q. Now, Colonel Horning, this is not a</p> <p>9 document I would normally show a percipient</p> <p>10 witness, but I'm essentially hamstrung and must</p> <p>11 do so here today for reasons that don't pertain</p> <p>12 to you, per se. But I would like you to turn to</p> <p>13 Page 11 of this document.</p> <p>14 Let me know when you're there.</p> <p>15 A. Okay. I am on Page 11.</p> <p>16 Q. Okay. And if you look back at Page 1,</p> <p>17 actually, you see there is a heading at the top</p> <p>18 that indicate what each of the columns are.</p> <p>19 A. Okay.</p> <p>20 Q. Okay. So you see that in the, one, two,</p> <p>21 three, four, five -- fifth column over on Page</p> <p>22 23, which is the To column, your name is</p> <p>23 listed --</p> <p>24 A. On? I'm sorry. Could you say what page</p> <p>25 again? I thought you said Page 23.</p>	<p style="text-align: right;">Page 13</p> <p>1 privilege over communications --</p> <p>2 A. Okay.</p> <p>3 Q. -- that they are not providing to</p> <p>4 the other side in litigation. So that's what a</p> <p>5 privilege log is. And so by virtue of this</p> <p>6 entry, on Line 23 the United States is asserting</p> <p>7 a privilege, as described in the last column, --</p> <p>8 A. Okay.</p> <p>9 Q. -- over your communication with</p> <p>10 Mr. Wessels and others --</p> <p>11 A. Okay.</p> <p>12 Q. -- listed on this page.</p> <p>13 A. Okay.</p> <p>14 Q. Do you understand now?</p> <p>15 MR. MCBIRNEY: Objection. Assumes facts</p> <p>16 not in evidence. Form of the question.</p> <p>17 BY MS. GOODMAN:</p> <p>18 Q. Do you understand -- do you have an</p> <p>19 appropriate understanding now of what a privilege</p> <p>20 log is?</p> <p>21 A. I do understand what this document is</p> <p>22 now.</p> <p>23 Q. Okay. So having now looked at this</p> <p>24 document and understanding what it is, does it</p> <p>25 refresh your memory at all that -- as to the</p>

<p style="text-align: right;">Page 14</p> <p>1 timing of your conversations with the Antitrust 2 Division? 3 MR. MCBIRNEY: Objection; foundation, 4 and to form. 5 THE WITNESS: It does not refresh my 6 recollection, but I have no reason to believe 7 this is not true. 8 BY MS. GOODMAN: 9 Q. Okay. And you see in the column next to 10 the date, which is the subject -- if you look 11 back at Page 1, you can see that that is the 12 subject column. 13 A. Yes. 14 Q. Okay. Can you read the subject to me 15 here? 16 A. The subject on Item 23 of the privilege 17 log says, brackets, "external DOJ-Army interview 18 on Google-Meta advertising products used by DOD." 19 Q. Okay. Do you recall who was interviewed 20 -- who at the Army was interviewed on Google-Meta 21 advertising products used by DOD on or around 22 this date of January 5th, 2023? 23 MR. MCBIRNEY: You can answer that yes 24 or no. 25 THE WITNESS: I do not recall.</p>	<p style="text-align: right;">Page 16</p> <p>1 Q. What was your understanding of the 2 purpose of the interview? 3 MR. MCBIRNEY: Objection. Calls for 4 privileged information. Instruct the witness not 5 to answer. 6 BY MS. GOODMAN: 7 Q. Are you following that instruction? 8 A. Yes. 9 Q. What facts -- strike that. 10 At the time reflected here on this 11 log, -- 12 A. Mm-hmm. 13 Q. -- January 5th, 2023, were you aware of 14 any anticompetitive conduct on the part of Google 15 affecting the Army's advertising -- 16 MR. MCBIRNEY: Objection. 17 BY MS. GOODMAN: 18 Q. -- practices? 19 MR. MCBIRNEY: Objection. Calls for a 20 legal conclusion. 21 BY MS. GOODMAN: 22 Q. You may answer. 23 A. I'm not sure that I have -- am 24 qualified to know or would have been made 25 available any infor -- or would have had any</p>
<p style="text-align: right;">Page 15</p> <p>1 BY MS. GOODMAN: 2 Q. Okay. Do you recall yourself being 3 interviewed on this topic? 4 A. I recall being interviewed, but I do not 5 recall that this was the date for it. 6 Q. Okay. Do you recall who interviewed 7 you? 8 A. I only recall -- I didn't -- there was 9 likely more than one person. I only recall one 10 by name. 11 Q. Who do you recall by name? 12 A. Mr. Chase Pritchett. 13 Q. Okay. How long did the interview last? 14 A. I can't be certain. I think it was, 15 likely, 60 to 90 minutes, perhaps. 16 Q. And this is a yes or no question: Did 17 the United States Antitrust Division lawyers 18 present explain to you the purpose of the 19 interview? 20 MR. MCBIRNEY: Objection. Calls for 21 privileged communication. Instruct the witness 22 not to answer. 23 BY MS. GOODMAN: 24 Q. Are you following that instruction? 25 A. Yes.</p>	<p style="text-align: right;">Page 17</p> <p>1 information available to me on that topic. 2 Q. Around this time of January 5th, 2023, 3 were you aware of any conduct on the part of 4 Google that was causing the Army to pay prices 5 for advertising that were too high? 6 A. I had not been made aware of anything 7 like that at the time frame that you're asking. 8 Q. Okay. How about prior to the time frame 9 that I'm asking? 10 A. Not that I can recall, no. 11 Q. Okay. What's your understanding of the 12 word anticompetitive? 13 MR. MCBIRNEY: Objection. Calls for 14 legal conclusion, and foundation. 15 THE WITNESS: I only know the common 16 language terminology. I don't understand the 17 actual legal definitions or implications. 18 Anticompetitive: Not competitive. 19 BY MS. GOODMAN: 20 Q. So what is your common language 21 understanding of the word anticompetitive? 22 A. I understand it in the context of 23 business practices meaning not adhering to a 24 competitive, fair practice. 25 Q. Okay. So using your definition of</p>

5 (Pages 14 - 17)

<p style="text-align: right;">Page 18</p> <p>1 anticompetitive, which is in the context of</p> <p>2 business practicing -- practices meaning "not</p> <p>3 adhering to a competitive, fair practice," at</p> <p>4 this time, January 5th of 2023, were you aware</p> <p>5 of any anticompetitive practices on the part of</p> <p>6 Google affecting the Army's advertising?</p> <p>7 MR. MCBIRNEY: Object to the form of the</p> <p>8 question.</p> <p>9 THE WITNESS: I was not aware.</p> <p>10 BY MS. GOODMAN:</p> <p>11 Q. At the time of this discussion with the</p> <p>12 DOJ, what was your understanding, if any, as to</p> <p>13 the possibility of litigation?</p> <p>14 MR. MCBIRNEY: Objection. Calls for</p> <p>15 privileged information. You can answer that</p> <p>16 question if you can answer it without divulging</p> <p>17 any privileged information. If you cannot, then</p> <p>18 I'll instruct you not to answer.</p> <p>19 THE WITNESS: Can you repeat the</p> <p>20 question?</p> <p>21 BY MS. GOODMAN:</p> <p>22 Q. At the time of the discussion with DOJ</p> <p>23 on or around January 5th, 2023, what was your</p> <p>24 understanding, if any, as to the possibility of</p> <p>25 litigation?</p>	<p style="text-align: right;">Page 20</p> <p>1 MS. GOODMAN: Confidential information?</p> <p>2 MR. MCBIRNEY: I'm sorry. Privileged</p> <p>3 information.</p> <p>4 MS. GOODMAN: Thank you.</p> <p>5 THE WITNESS: I have no personal opinion</p> <p>6 about attending a meeting. As a soldier, I</p> <p>7 received an order. I do what I'm told.</p> <p>8 BY MS. GOODMAN:</p> <p>9 Q. Okay. From whom did you receive an</p> <p>10 order, if anyone?</p> <p>11 A. From AEMO leadership.</p> <p>12 Q. Who in AEMO leadership?</p> <p>13 A. As best as I re -- can recall, the AEMO</p> <p>14 chief of staff.</p> <p>15 Q. Who's that?</p> <p>16 A. Colonel Matt Weinrich.</p> <p>17 Q. Why did Mr. Weinrich -- I'm sorry,</p> <p>18 Colonel Weinrich order you to participate in this</p> <p>19 meeting?</p> <p>20 MR. MCBIRNEY: Objection. Calls for</p> <p>21 speculation.</p> <p>22 THE WITNESS: Yeah. I -- I can't answer</p> <p>23 as to why he chose me.</p> <p>24 BY MS. GOODMAN:</p> <p>25 Q. Okay. Did he explain to you why he</p>
<p style="text-align: right;">Page 19</p> <p>1 MR. MCBIRNEY: Same instruction. If</p> <p>2 you can answer that without disclosing privileged</p> <p>3 information, you may. Otherwise, I instruct you</p> <p>4 not to answer.</p> <p>5 THE WITNESS: None.</p> <p>6 BY MS. GOODMAN:</p> <p>7 Q. Around the time of this meeting</p> <p>8 -- strike that.</p> <p>9 Around the time of these communications</p> <p>10 with the Department of Justice about Google-Meta</p> <p>11 advertising products used by DOD, what were your</p> <p>12 personal views on having to participate in those</p> <p>13 discussions?</p> <p>14 MR. MCBIRNEY: Objection; vague.</p> <p>15 THE WITNESS: Can you clarify the</p> <p>16 question to the extent what was my personal view</p> <p>17 of being involved in a meeting?</p> <p>18 BY MS. GOODMAN:</p> <p>19 Q. Yes. What was your personal view of</p> <p>20 being involved in a meeting or discussions with</p> <p>21 the Antitrust Division about Google advertising</p> <p>22 -- Meta advertising products used by DOD?</p> <p>23 MR. MCBIRNEY: Same objection. And</p> <p>24 caution the witness not to divulge confidential</p> <p>25 information in your answer.</p>	<p style="text-align: right;">Page 21</p> <p>1 chose you?</p> <p>2 A. No.</p> <p>3 Q. When did he order you to -- to</p> <p>4 participate in these discussions?</p> <p>5 A. I can't recall a -- a specific date. As</p> <p>6 best as I can recall, it was via an email saying</p> <p>7 that there was going to be individuals who needed</p> <p>8 to ask questions and I should make myself</p> <p>9 available, but I don't remember when.</p> <p>10 Q. Okay. Anything else you remember about</p> <p>11 that email and what it said?</p> <p>12 A. No, I don't.</p> <p>13 Q. Did you have any discussions outside of</p> <p>14 email with Colonel Weinrich about this request?</p> <p>15 A. No.</p> <p>16 Q. And setting aside the fact that you</p> <p>17 received an order to participate in discussions</p> <p>18 with the Department of Justice on this topic,</p> <p>19 is it your testimony you had no personal view</p> <p>20 whatsoever as to your participation in such</p> <p>21 meetings?</p> <p>22 MR. MCBIRNEY: Object to the form and</p> <p>23 asked and answered.</p> <p>24 THE WITNESS: Yeah. I have no personal</p> <p>25 opinion on -- on attending the meeting.</p>

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<p>1 BY MS. GOODMAN:</p> <p>2 Q. Do you have any personal opinion</p> <p>3 about your involvement in this -- in discussions</p> <p>4 -- setting aside just a meeting, but throughout</p> <p>5 the month of January 2023, did you have any</p> <p>6 personal opinion about your involvement in</p> <p>7 discussions or information-gathering with</p> <p>8 the Department of Justice at that time?</p> <p>9 MR. MCBIRNEY: Object to form.</p> <p>10 THE WITNESS: No.</p> <p>11 MR. MCBIRNEY: Make sure you give me</p> <p>12 time to object.</p> <p>13 BY MS. GOODMAN:</p> <p>14 Q. Was anybody else, to your knowledge,</p> <p>15 involved in discussions with the Department of</p> <p>16 Justice in and around March -- sorry, June</p> <p>17 -- January 5th, 2023, about the Army's use of</p> <p>18 advertising products from Google or Meta?</p> <p>19 A. Yes.</p> <p>20 Q. Who else?</p> <p>21 A. The only other individual that I can</p> <p>22 recall by name is Lieutenant Colonel Lennox</p> <p>23 Morris.</p> <p>24 Q. And what was his involvement?</p> <p>25 MR. MCBIRNEY: Objection. Calls for</p>	<p>1 Q. In 2023?</p> <p>2 A. In 2023.</p> <p>3 Q. Any other in-person meetings that you</p> <p>4 recall?</p> <p>5 A. No.</p> <p>6 Q. So from January 5th, as we're seeing</p> <p>7 on this privilege log, to the present, how many</p> <p>8 in-person face-to-face meetings have you had with</p> <p>9 any lawyers from the Department of Justice?</p> <p>10 A. I'm sorry. Could you repeat the modes</p> <p>11 once again, or the methods?</p> <p>12 Q. This question is specific to in-person,</p> <p>13 face-to-face meetings.</p> <p>14 A. Okay. The one that we just mentioned</p> <p>15 and then not again until yesterday.</p> <p>16 Q. Okay. How about video conferences?</p> <p>17 How many video conferences do you recall having</p> <p>18 with lawyers from the Antitrust Division of the</p> <p>19 Department of Justice in the year 2023?</p> <p>20 A. Two.</p> <p>21 Q. When did those take place?</p> <p>22 A. Within the last two weeks.</p> <p>23 Q. Who attended those meetings -- those</p> <p>24 video conferences?</p> <p>25 A. Myself, Mr. Pritchett, Mr. Chu, Major</p>
Page 23	Page 25
<p>1 speculation.</p> <p>2 THE WITNESS: Yeah. I wasn't in the</p> <p>3 room during his discussion, so I don't know.</p> <p>4 BY MS. GOODMAN:</p> <p>5 Q. Did he have separate discussions with</p> <p>6 the Department of Justice, to your knowledge?</p> <p>7 A. They were separate from any discussion</p> <p>8 that I had.</p> <p>9 Q. And were -- these discussions that you</p> <p>10 had, were they over email, by phone, by Zoom, by</p> <p>11 Teams, what was the mode of communication?</p> <p>12 A. Face-to-face.</p> <p>13 Q. Face-to-face.</p> <p>14 And where face-to-face? In what town or</p> <p>15 city or --</p> <p>16 A. In Chicago.</p> <p>17 Q. Okay. And were they at AEMO HQ?</p> <p>18 A. That's correct.</p> <p>19 Q. And did Department of Justice lawyers</p> <p>20 travel to Chicago to attend?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. What's your best recollection</p> <p>23 of when that -- when a meeting at AEMO HQ took</p> <p>24 place?</p> <p>25 A. Late winter.</p>	<p>1 Al-Darsani. And there might have been another</p> <p>2 one or two in or out of the meeting at a</p> <p>3 particular time, but I don't recall particularly</p> <p>4 who that was.</p> <p>5 Q. Okay. How long did the video</p> <p>6 conferences last?</p> <p>7 A. Maybe two hours.</p> <p>8 Q. So -- so am I correct that you've had</p> <p>9 two video conferences in the last two weeks that</p> <p>10 lasted approximately two hours with attorneys</p> <p>11 from the Department of Justice? Is that a fair</p> <p>12 summary?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. Was that in connection with</p> <p>15 preparing for your deposition in this case?</p> <p>16 A. Yes.</p> <p>17 Q. Did it cover topics related to this</p> <p>18 litigation -- and this is a yes or no question</p> <p>19 -- did it cover topics related to this litigation</p> <p>20 other than your deposition?</p> <p>21 MR. MCBIRNEY: I'm going to object to</p> <p>22 that as privileged and instruct the witness not</p> <p>23 to answer.</p> <p>24 MS. GOODMAN: Why is he permitted to</p> <p>25 answer about whether he had a meeting with you</p>

7 (Pages 22 - 25)

<p style="text-align: right;">Page 34</p> <p>1 about your personal reactions to receiving</p> <p>2 an inquiry -- inquiry from the Department of</p> <p>3 Justice, how did you view it? As a routine</p> <p>4 request for information? As fact-gathering?</p> <p>5 What was your personal view of the nature of the</p> <p>6 inquiry?</p> <p>7 MR. MCBIRNEY: Object to the form of the</p> <p>8 question and vague.</p> <p>9 THE WITNESS: I viewed it as a routine</p> <p>10 request for information.</p> <p>11 BY MS. GOODMAN:</p> <p>12 Q. Okay. Has the Department of Justice</p> <p>13 asked you to get information from the advertising</p> <p>14 agency DDB?</p> <p>15 MR. MCBIRNEY: Obj --</p> <p>16 BY MS. GOODMAN:</p> <p>17 Q. Yes or no.</p> <p>18 MR. MCBIRNEY: Objection. Calls for</p> <p>19 privileged information. I instruct the witness</p> <p>20 not to answer.</p> <p>21 THE WITNESS: I'm not going to answer</p> <p>22 the question on advice of question.</p> <p>23 MS. GOODMAN: That question is</p> <p>24 completely proper because it goes to your</p> <p>25 assertion to which you bear a burden of proof and</p>	<p style="text-align: right;">Page 36</p> <p>1 Q. So, Colonel Horning, I'll ask you again</p> <p>2 so that I can get an answer or your -- well, get</p> <p>3 a clean record, I should say.</p> <p>4 Has anybody at the Department of</p> <p>5 Justice asked you to get any information from</p> <p>6 your advertising agency DDB?</p> <p>7 MR. MCBIRNEY: Objection. Calls for</p> <p>8 privileged communication. Instruct the witness</p> <p>9 not to answer.</p> <p>10 BY MS. GOODMAN:</p> <p>11 Q. Are you following that instruction?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. Has anybody at the Department of</p> <p>14 Justice asked you to have any conversations with</p> <p>15 any person from your advertising agency DDB?</p> <p>16 MR. MCBIRNEY: Objection. Calls for</p> <p>17 privileged information. Instruct the witness not</p> <p>18 to answer.</p> <p>19 BY MS. GOODMAN:</p> <p>20 Q. Are you following that instruction?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. To your knowledge, has anybody</p> <p>23 at the Department of Justice asked any other</p> <p>24 employee of AEMO to obtain information from the</p> <p>25 advertising agency DDB?</p>
<p style="text-align: right;">Page 35</p> <p>1 persuasion as to your claim of privilege.</p> <p>2 MR. MCBIRNEY: You are asking</p> <p>3 the witness to disclose communications of a</p> <p>4 particularized nature from counsel, which is</p> <p>5 clearly work product. So that instruction is</p> <p>6 entirely proper, and I'm instructing the witness</p> <p>7 not to answer.</p> <p>8 BY MS. GOODMAN:</p> <p>9 Q. Okay. Has the Department of Justice --</p> <p>10 anybody at the Department of Justice asked you</p> <p>11 to participate in any conversations with your</p> <p>12 advertising agency?</p> <p>13 MR. MCBIRNEY: Same objection. Instruct</p> <p>14 the witness not to answer.</p> <p>15 You are asking the witness for</p> <p>16 particular communications from counsel.</p> <p>17 MS. GOODMAN: No. They're very</p> <p>18 generalized communications. We've talked about</p> <p>19 the term "information" being very generalized.</p> <p>20 MR. MCBIRNEY: Even if they're</p> <p>21 generalized, they're communications from counsel.</p> <p>22 MS. GOODMAN: Of the kind that appear on</p> <p>23 privilege log. This is exactly what you have to</p> <p>24 put on a privilege log.</p> <p>25 BY MS. GOODMAN:</p>	<p style="text-align: right;">Page 37</p> <p>1 MR. MCBIRNEY: Objection. Calls for</p> <p>2 privileged information. Instruct the witness not</p> <p>3 to answer.</p> <p>4 BY MS. GOODMAN:</p> <p>5 Q. Are you following that instruction?</p> <p>6 A. Yes.</p> <p>7 Q. To your knowledge, has anybody at the</p> <p>8 Department of Justice asked any other employee of</p> <p>9 AEMO to have any conversations with any person</p> <p>10 from the advertising agency DDB?</p> <p>11 MR. MCBIRNEY: Objection. Calls for</p> <p>12 privileged information, and instruct the witness</p> <p>13 not to answer.</p> <p>14 BY MS. GOODMAN:</p> <p>15 Q. Are you following that instruction?</p> <p>16 A. Yes.</p> <p>17 Q. Are you aware of any investigation by</p> <p>18 the Department of Justice into Google?</p> <p>19 MR. MCBIRNEY: You can answer that yes</p> <p>20 or no.</p> <p>21 THE WITNESS: Yes.</p> <p>22 BY MS. GOODMAN:</p> <p>23 Q. When did you first become aware of that</p> <p>24 investigation?</p> <p>25 MR. MCBIRNEY: I'm going to instruct the</p>

<p style="text-align: right;">Page 38</p> <p>1 witness that if you can answer that question</p> <p>2 without disclosing privileged information you may</p> <p>3 do so. If you cannot, then I instruct you not to</p> <p>4 answer.</p> <p>5 THE WITNESS: I'm not going to answer</p> <p>6 that question on the advice of counsel.</p> <p>7 BY MS. GOODMAN:</p> <p>8 Q. Okay. Prior to late winter 2023, as</p> <p>9 we've discussed, had anybody from anyone within</p> <p>10 the government reached out to you inquiring about</p> <p>11 the Army's digital advertising purchases?</p> <p>12 MR. MCBIRNEY: Objection; vague and</p> <p>13 instruct the witness that if you can answer</p> <p>14 that question without disclosing privileged</p> <p>15 information, you may do so. If you cannot,</p> <p>16 then I instruct the witness not to answer.</p> <p>17 THE WITNESS: I don't recall any</p> <p>18 communication previous to what we already</p> <p>19 discussed.</p> <p>20 BY MS. GOODMAN:</p> <p>21 Q. Okay. And how about prior to late</p> <p>22 winter 2023, did you have any outreach from</p> <p>23 anybody within the United States government about</p> <p>24 any anticompetitive conduct on the part of Google</p> <p>25 affecting the United States Army? And when I use</p>	<p style="text-align: right;">Page 40</p> <p>1 A. Yes.</p> <p>2 Q. When did you receive a litigation hold,</p> <p>3 if any?</p> <p>4 MR. MCBIRNEY: Objection. Assumes</p> <p>5 facts not in evidence and calls for privileged</p> <p>6 information. Instruct the witness not to answer.</p> <p>7 BY MS. GOODMAN:</p> <p>8 Q. Are you following that instruction?</p> <p>9 A. Yes.</p> <p>10 Q. Who sent you a litigation hold, if any?</p> <p>11 MR. MCBIRNEY: Same objections.</p> <p>12 Instruct the witness not to answer.</p> <p>13 BY MS. GOODMAN:</p> <p>14 Q. Are you following that instruction?</p> <p>15 A. Yes.</p> <p>16 Q. When did you first become aware that</p> <p>17 your participation in this lawsuit would be re --</p> <p>18 necessary?</p> <p>19 MR. MCBIRNEY: Objection. Assumes facts</p> <p>20 not in evidence. Vague.</p> <p>21 THE WITNESS: I first became aware that</p> <p>22 I would be a participant within the last two</p> <p>23 weeks.</p> <p>24 BY MS. GOODMAN:</p> <p>25 Q. Prior to the last two weeks, have you</p>
<p style="text-align: right;">Page 39</p> <p>1 the word anticompetitive, I'm using your</p> <p>2 definition?</p> <p>3 MR. MCBIRNEY: Objection; vague.</p> <p>4 Instruct the witness that if you can answer</p> <p>5 that question without disclosing privileged</p> <p>6 communication you may do so. If not, I instruct</p> <p>7 the witness not to answer.</p> <p>8 THE WITNESS: I cannot recall a</p> <p>9 time prior to then when anyone from the U.S.</p> <p>10 government reached out to me on any topic related</p> <p>11 to any practice of any vendor or company involved</p> <p>12 in advertising.</p> <p>13 BY MS. GOODMAN:</p> <p>14 Q. And that includes Google?</p> <p>15 MR. MCBIRNEY: Objection; vague.</p> <p>16 THE WITNESS: My recollection, as</p> <p>17 previously stated, would include Google.</p> <p>18 BY MS. GOODMAN:</p> <p>19 Q. Okay. Have you received a litigation</p> <p>20 hold?</p> <p>21 MR. MCBIRNEY: Objection. Calls for</p> <p>22 privileged information. Instruct the witness not</p> <p>23 to answer.</p> <p>24 BY MS. GOODMAN:</p> <p>25 Q. Are you following that instruction?</p>	<p style="text-align: right;">Page 41</p> <p>1 assisted anybody in the Department of Justice</p> <p>2 with gathering information related to this</p> <p>3 litigation?</p> <p>4 MR. MCBIRNEY: Objection; vague and</p> <p>5 calls for privileged information. Instruct the</p> <p>6 witness not to answer.</p> <p>7 BY MS. GOODMAN:</p> <p>8 Q. Have you gathered any information in</p> <p>9 order to provide discovery to Google in this</p> <p>10 litigation?</p> <p>11 MR. MCBIRNEY: You can answer that yes</p> <p>12 or no.</p> <p>13 THE WITNESS: No.</p> <p>14 BY MS. GOODMAN:</p> <p>15 Q. Are you aware one way or another if your</p> <p>16 emails have been searched or produced to Google?</p> <p>17 MR. MCBIRNEY: You can answer.</p> <p>18 THE WITNESS: I'm not aware if it has or</p> <p>19 has not occurred.</p> <p>20 BY MS. GOODMAN:</p> <p>21 Q. Okay. Do you recall providing any</p> <p>22 information for the purpose of answering written</p> <p>23 questions called interrogatories in this</p> <p>24 litigation?</p> <p>25 MR. MCBIRNEY: Ob -- you can answer that</p>

<p style="text-align: right;">Page 42</p> <p>1 question if you can do so without disclosing</p> <p>2 privileged information. If not, I instruct the</p> <p>3 witness not to answer.</p> <p>4 THE WITNESS: Can you restate the</p> <p>5 question?</p> <p>6 BY MS. GOODMAN:</p> <p>7 Q. Do you recall providing any information</p> <p>8 for the purpose of answering written questions</p> <p>9 called interrogatories in this litigation?</p> <p>10 A. I do not recall.</p> <p>11 Q. Okay. What's your understanding of what</p> <p>12 this lawsuit is about?</p> <p>13 MR. MCBIRNEY: Objection; vague.</p> <p>14 Instruct the witness you can answer that question</p> <p>15 if you can do so without disclosing privileged</p> <p>16 information. Otherwise, I'd instruct you not to</p> <p>17 answer.</p> <p>18 THE WITNESS: I don't know that I have a</p> <p>19 full legal understanding of -- of the issues at</p> <p>20 play to say that I know what the lawsuit is</p> <p>21 actually about.</p> <p>22 BY MS. GOODMAN:</p> <p>23 Q. Okay. Do you have any understanding</p> <p>24 of the issues in play to have any level of</p> <p>25 understanding whatsoever about what the lawsuit</p>	<p style="text-align: right;">Page 44</p> <p>1 speculation.</p> <p>2 THE WITNESS: It's not part of my normal</p> <p>3 duties. I'm not a -- I'm not a lawyer. I'm not</p> <p>4 normally involved in legal matters.</p> <p>5 BY MS. GOODMAN:</p> <p>6 Q. Okay. What is your understanding of the</p> <p>7 Army's role in this lawsuit?</p> <p>8 MR. MCBIRNEY: Objection; vague.</p> <p>9 You can answer the question if you can do so</p> <p>10 without disclosing privileged information. If</p> <p>11 you cannot, then I'd instruct you not to answer.</p> <p>12 THE WITNESS: I'm not sure that I</p> <p>13 understand, within the context of how these</p> <p>14 lawsuits may or may not work, what the Army's</p> <p>15 role actually is other than I'm here providing a</p> <p>16 deposition.</p> <p>17 BY MS. GOODMAN:</p> <p>18 Q. Okay. Is there any other -- other than</p> <p>19 your role in providing a deposition, is there any</p> <p>20 other purpose to your understanding for the</p> <p>21 Army's involvement in this lawsuit?</p> <p>22 MR. MCBIRNEY: Again, objection;</p> <p>23 vague. If you can answer that question without</p> <p>24 disclosing privileged information, you may do so.</p> <p>25 If you cannot, I instruct you not to answer.</p>
<p style="text-align: right;">Page 43</p> <p>1 is about?</p> <p>2 MR. MCBIRNEY: Objection; vague and same</p> <p>3 instruction. You can answer if you can do so</p> <p>4 without disclosing privileged information.</p> <p>5 THE WITNESS: I can only make</p> <p>6 assumptions.</p> <p>7 BY MS. GOODMAN:</p> <p>8 Q. What do you mean by that?</p> <p>9 A. I can make an assumption based on</p> <p>10 your inquiry to me if I understand the word</p> <p>11 anticompetitive, and I make an assumption based</p> <p>12 on the information that's been presented and that</p> <p>13 the Department of Justice Antitrust Division is</p> <p>14 involved.</p> <p>15 Q. Okay. Have you read any documents filed</p> <p>16 in this case -- documents filed with the Court?</p> <p>17 A. I'm not sure that I can answer that,</p> <p>18 because I don't know what has been filed.</p> <p>19 Q. Okay. Well, there's a document called</p> <p>20 the complaint that initiates a lawsuit. Have you</p> <p>21 read that document?</p> <p>22 A. I have not.</p> <p>23 Q. Is there a reason why you have not read</p> <p>24 it?</p> <p>25 MR. MCBIRNEY: Objection. Calls for</p>	<p style="text-align: right;">Page 45</p> <p>1 THE WITNESS: I'm sorry. The question</p> <p>2 was a little bit hard for me to understand. Can</p> <p>3 you -- can you restate it?</p> <p>4 BY MS. GOODMAN:</p> <p>5 Q. Sure. Other than your providing a</p> <p>6 deposition, are you aware of any other role that</p> <p>7 the Army has in this lawsuit?</p> <p>8 MR. MCBIRNEY: Same objection. Same</p> <p>9 instruction.</p> <p>10 THE WITNESS: I'm not aware.</p> <p>11 BY MS. GOODMAN:</p> <p>12 Q. Okay. How did you learn of a lawsuit</p> <p>13 being filed?</p> <p>14 MR. MCBIRNEY: Objection. Again, if</p> <p>15 you can answer that question without disclosing</p> <p>16 privileged information, you may do so.</p> <p>17 Otherwise, I'd instruct not to answer.</p> <p>18 THE WITNESS: I'm -- I'm not a lawyer so</p> <p>19 I don't know what the steps of a lawsuit being</p> <p>20 filed are, and you talking about the complaint is</p> <p>21 the first time that I might assume that I know a</p> <p>22 lawsuit has now been filed.</p> <p>23 BY MS. GOODMAN:</p> <p>24 Q. So is it fair to say, prior to the</p> <p>25 questions that I've asked you, --</p>

<p style="text-align: right;">Page 46</p> <p>1 A. Mm-hmm.</p> <p>2 Q. -- you had no understanding one way or</p> <p>3 another if a lawsuit had been filed?</p> <p>4 A. That is correct.</p> <p>5 Q. Okay. Who, if anybody, have you</p> <p>6 discussed your participation in this lawsuit</p> <p>7 with?</p> <p>8 A. My supervisors and peers at the</p> <p>9 office, the Department of Justice team, and one</p> <p>10 individual from my ad agency.</p> <p>11 Q. Let's start at the top. Who -- which</p> <p>12 supervisors and peers at the office have you</p> <p>13 discussed your participation in this lawsuit</p> <p>14 with?</p> <p>15 A. Mr. Mavridis, the current acting chief;</p> <p>16 Colonel Weinrich, the chief of staff; Sergeant</p> <p>17 Major Alexander, the command sergeant major;</p> <p>18 Colonel Shannon Johnson. Colonel Erica Iverson.</p> <p>19 And, perhaps, another person that I don't -- I</p> <p>20 can't recall if they may have been in a room or</p> <p>21 in a meeting at the time or not.</p> <p>22 Q. And who is the other person that --</p> <p>23 A. I -- I -- I can't recall their -- I</p> <p>24 don't --</p> <p>25 Q. Oh, you don't know their name?</p>	<p style="text-align: right;">Page 48</p> <p>1 A. Mr. Mavridis is the acting chief in the</p> <p>2 interim.</p> <p>3 Q. Who is the former who retired?</p> <p>4 A. Major General Alex Fink.</p> <p>5 Q. And who is the incoming who has not yet</p> <p>6 arrived?</p> <p>7 A. Brigadier General Gant.</p> <p>8 Q. okay. Colonel Weinrich, what did you</p> <p>9 discuss with him about this lawsuit?</p> <p>10 MR. MCBIRNEY: Caution the witness in</p> <p>11 all of these responses not to disclose privileged</p> <p>12 information.</p> <p>13 THE WITNESS: The same as with</p> <p>14 Mr. Mavridis as it was all the attendees at the</p> <p>15 same meeting; essentially, that I was going to</p> <p>16 need to be traveling on temporary duty to attend</p> <p>17 these proceedings.</p> <p>18 BY MS. GOODMAN:</p> <p>19 Q. Okay. Any other conversations you had</p> <p>20 with Mr. Rein -- Weinrich about -- sorry, Colonel</p> <p>21 Weinrich, about this lawsuit?</p> <p>22 A. No.</p> <p>23 Q. Any conversations you recall with</p> <p>24 Mr. -- Colonel Weinrich about the Department of</p> <p>25 Justice's investigation?</p>
<p style="text-align: right;">Page 47</p> <p>1 A. I don't want to state factually that</p> <p>2 there were or were not and then maybe, perhaps,</p> <p>3 another person. I can't recall. Those are the</p> <p>4 individuals that I can't recall specifically.</p> <p>5 Q. Mr. Mavridis, the acting chief, what did</p> <p>6 you discuss with him?</p> <p>7 A. That I would be out of the office TDY in</p> <p>8 order to be here today.</p> <p>9 Q. What is "TDY"?</p> <p>10 A. Temporary duty.</p> <p>11 Q. What else, if anything, did you discuss</p> <p>12 with him about your --</p> <p>13 A. That's -- that's the full extent.</p> <p>14 Q. Okay. What did he say in response?</p> <p>15 A. I can't recall a specific response other</p> <p>16 than probably to acknowledge that I would be out</p> <p>17 of office.</p> <p>18 Q. Okay. How about -- well, Mr. Mavridis</p> <p>19 is the acting chief. He's the acting chief of</p> <p>20 what? What's that title mean?</p> <p>21 A. Chief Army Enterprise Marketing.</p> <p>22 That's the leader position in our organization.</p> <p>23 Our former chief has just retired, and the</p> <p>24 incoming has not arrived yet.</p> <p>25 Q. Okay.</p>	<p style="text-align: right;">Page 49</p> <p>1 A. I don't recall having any conversations</p> <p>2 about that with him.</p> <p>3 Q. Okay. How about with Mr. Mavridis,</p> <p>4 any conversations with him about the DOJ's</p> <p>5 investigation?</p> <p>6 A. None that I can recall.</p> <p>7 Q. Okay. Command Sergeant Major Alexander,</p> <p>8 what conversations, if any, about your</p> <p>9 participation in this lawsuit have you had</p> <p>10 with that individual?</p> <p>11 A. Again, only that I would be out of</p> <p>12 office traveling to participate in these</p> <p>13 proceedings.</p> <p>14 Q. Okay. How about with respect to the</p> <p>15 Department of Justice's investigation? Any</p> <p>16 Conversations with that individual on that topic?</p> <p>17 A. None that I recall.</p> <p>18 Q. Okay. Colonel Johnson, what</p> <p>19 conversations with that individual have you</p> <p>20 had about your participation in this lawsuit?</p> <p>21 A. Only that I would be traveling and be</p> <p>22 out of office for a few days to participate in</p> <p>23 these proceedings.</p> <p>24 Q. Okay. What conversations, if any, have</p> <p>25 you had with Colonel Johnson about the Department</p>

<p style="text-align: right;">Page 50</p> <p>1 of Justice's investigation?</p> <p>2 A. None that I recall.</p> <p>3 Q. Okay. Colonel Iverson, what</p> <p>4 conversations, if any, have you had with this</p> <p>5 individual about your participation in this</p> <p>6 lawsuit?</p> <p>7 A. Only that I would be traveling to</p> <p>8 Washington, D.C., for these because she's</p> <p>9 stationed here and we might get together</p> <p>10 following proceedings.</p> <p>11 Q. Was she in the meeting that you</p> <p>12 described earlier where this was -- your -- your</p> <p>13 needing to be on TDY was discussed?</p> <p>14 A. It's possible, but I don't recall</p> <p>15 specifically.</p> <p>16 Q. Okay. So do you have a -- a separate</p> <p>17 recollection of a conversation with Colonel</p> <p>18 Iverson on your participation in this lawsuit?</p> <p>19 A. I do.</p> <p>20 Q. Okay. When did that occur?</p> <p>21 A. Within the last week.</p> <p>22 Q. Okay. Have you seen Colonel Iverson</p> <p>23 while you've been here in Washington?</p> <p>24 A. Not yet.</p> <p>25 Q. Are you planning to?</p>	<p style="text-align: right;">Page 52</p> <p>1 Q. Okay. And what did you discuss with</p> <p>2 Lieutenant Colonel Morris about the Department of</p> <p>3 Justice's investigation?</p> <p>4 MR. MCBIRNEY: You can answer that</p> <p>5 question if you can do so without disclosing</p> <p>6 privileged information. If not, I instruct you</p> <p>7 not to answer.</p> <p>8 THE WITNESS: The only conversation that</p> <p>9 I can recall would have been on or around the</p> <p>10 time of the email and/or meetings as described</p> <p>11 on Page 11 of this privilege log where we</p> <p>12 both shared with each other that we would be</p> <p>13 participating in a discussion with Department of</p> <p>14 Justice.</p> <p>15 BY MS. GOODMAN:</p> <p>16 Q. Okay. Anything else you recall about</p> <p>17 that conversation?</p> <p>18 A. No.</p> <p>19 Q. How about with Glenna Wood, have you had</p> <p>20 any conversations with her about the Department</p> <p>21 of Justice's investigation?</p> <p>22 A. No.</p> <p>23 Q. Have you had any conversations with</p> <p>24 Glenna Wood about your participation in this</p> <p>25 lawsuit?</p>
<p style="text-align: right;">Page 51</p> <p>1 A. Yes.</p> <p>2 Q. Okay. Do you plan to discuss your</p> <p>3 participation in this lawsuit when you meet with</p> <p>4 Colonel Iverson?</p> <p>5 MR. MCBIRNEY: Objection. Calls for</p> <p>6 speculation.</p> <p>7 THE WITNESS: Don't have any plans to</p> <p>8 talk about it.</p> <p>9 BY MS. GOODMAN:</p> <p>10 Q. Okay. Have you had any conversations</p> <p>11 with Colonel Iverson about the Department of</p> <p>12 Justice's investigation?</p> <p>13 A. None that I recall.</p> <p>14 Q. Do you recall having any conversations</p> <p>15 with any other individual within AEMO about the</p> <p>16 Department of Justice's investigation?</p> <p>17 MR. MCBIRNEY: You can answer that yes</p> <p>18 or no.</p> <p>19 THE WITNESS: Yes.</p> <p>20 BY MS. GOODMAN:</p> <p>21 Q. Who have you had conversations with</p> <p>22 within AEMO about the Department of Justice's</p> <p>23 investigation?</p> <p>24 A. The only individual that I can recall</p> <p>25 would have been Lieutenant colonel Morris.</p>	<p style="text-align: right;">Page 53</p> <p>1 A. No.</p> <p>2 Q. Have you had any conversations with</p> <p>3 Major Austin DZ, whose last name I will not</p> <p>4 attempt to pronounce, about the Department of</p> <p>5 Justice's investigation?</p> <p>6 A. No.</p> <p>7 Q. Have you had any conversations with</p> <p>8 Major DZ about your par -- your participation in</p> <p>9 this lawsuit?</p> <p>10 A. None that I can recall.</p> <p>11 Q. Have you had any conversations with</p> <p>12 Heather Green-Trueblood about the Department of</p> <p>13 Justice's investigation?</p> <p>14 A. No.</p> <p>15 Q. Have you had any conversations with</p> <p>16 Heather Green-Trueblood about your participation</p> <p>17 in this lawsuit?</p> <p>18 A. No.</p> <p>19 Q. Have you had any conversations with</p> <p>20 Richard Stanforth about the Department of</p> <p>21 Justice's investigation?</p> <p>22 A. No.</p> <p>23 Q. Have you had any conversations with</p> <p>24 -- have you had any communications with Richard</p> <p>25 Stanforth about the department -- about your</p>

<p style="text-align: right;">Page 54</p> <p>1 involvement in this lawsuit?</p> <p>2 A. No.</p> <p>3 Q. Have you had any communications with</p> <p>4 Major Daniel Flynn about the Department of</p> <p>5 Justice's investigation?</p> <p>6 A. No.</p> <p>7 Q. Have you had any communications with</p> <p>8 Major Daniel Flynn about your participation in</p> <p>9 this lawsuit?</p> <p>10 A. Only that I would be traveling TDY.</p> <p>11 Major Flynn now is one of the individuals that</p> <p>12 reports to me, so to let him know I would be out</p> <p>13 of office.</p> <p>14 Q. And was he in the meeting that --</p> <p>15 A. He was not.</p> <p>16 Q. Okay. When did you let him know you</p> <p>17 would be out of office?</p> <p>18 A. As best I can recall, late last week or</p> <p>19 early this week.</p> <p>20 Q. Have you had any conversations with</p> <p>21 Major Lee-Ann Craig about the Department of</p> <p>22 Justice's investigation?</p> <p>23 A. No.</p> <p>24 Q. Have you had any conversation</p> <p>25 -- communications with Major Lee-Ann Craig about</p>	<p style="text-align: right;">Page 56</p> <p>1 MR. MCBIRNEY: Caution the witness you</p> <p>2 can answer that question if you can do so without</p> <p>3 disclosing privileged communication.</p> <p>4 THE WITNESS: That I would be traveling</p> <p>5 and unable to attend our typical weekly</p> <p>6 directors' meeting.</p> <p>7 BY MS. GOODMAN:</p> <p>8 Q. How did you let her know that?</p> <p>9 A. I don't recall. I don't recall the</p> <p>10 exact means now.</p> <p>11 Q. Okay. Any conversations with</p> <p>12 Ms. Springer -- strike that.</p> <p>13 Any communications with Ms. Springer</p> <p>14 about the Department of Justice's investigation?</p> <p>15 A. No.</p> <p>16 Q. Any conver -- communications with</p> <p>17 Ms. Springer about the Army's digital advertising</p> <p>18 purchases using Google products or services?</p> <p>19 A. None that I can recall.</p> <p>20 Q. Have you spoken with Chris Pultorak at</p> <p>21 DDB about your participation in this lawsuit?</p> <p>22 A. No.</p> <p>23 Q. Have you spoken with Maria -- or have</p> <p>24 you communicated with Maria Stuckel about your</p> <p>25 participation in this lawsuit?</p>
<p style="text-align: right;">Page 55</p> <p>1 your participation in this lawsuit?</p> <p>2 A. No.</p> <p>3 Q. Of the individuals that we've gone</p> <p>4 over --</p> <p>5 A. Mm-hmm.</p> <p>6 Q. -- who -- at AEMO, have you had any</p> <p>7 conver -- communications with any of them about</p> <p>8 the Army's purchases of digital advertising from</p> <p>9 Google in 2023?</p> <p>10 MR. MCBIRNEY: You can answer that</p> <p>11 question if you can do so without disclosing</p> <p>12 privileged information. If not, then I instruct</p> <p>13 you not to answer.</p> <p>14 THE WITNESS: None that I can recall.</p> <p>15 BY MS. GOODMAN:</p> <p>16 Q. Okay. You mentioned that you've spoken</p> <p>17 or communicated with an individual at DDB about</p> <p>18 your participation in this lawsuit. Do you</p> <p>19 recall that?</p> <p>20 A. Yes.</p> <p>21 Q. Who is that individual?</p> <p>22 A. Ms. Holly Springer.</p> <p>23 Q. What did you dis -- what did you and</p> <p>24 Ms. Springer communicate about?</p> <p>25 A. That I would be --</p>	<p style="text-align: right;">Page 57</p> <p>1 A. No.</p> <p>2 Q. Have you communicated with Ron Davis</p> <p>3 about your participation in this lawsuit?</p> <p>4 A. No.</p> <p>5 Q. Have you communicated with any of</p> <p>6 those three individuals about the Department of</p> <p>7 Justice's investigation?</p> <p>8 A. No.</p> <p>9 Q. Have you communicated with any of those</p> <p>10 three individuals about the Army's purchases of</p> <p>11 digital ads using Google products or services?</p> <p>12 A. No.</p> <p>13 Q. Are there any other individuals at</p> <p>14 DDB who you communicated with about your</p> <p>15 participation in this lawsuit?</p> <p>16 A. I'm sorry. Can -- can you say that</p> <p>17 again? I -- I didn't quite make out the first</p> <p>18 part of the question.</p> <p>19 Q. Can you recall any other individual at</p> <p>20 DDB with whom you've communicated about your</p> <p>21 participation in this lawsuit?</p> <p>22 A. No.</p> <p>23 Q. Can you think of any other individual at</p> <p>24 DDB who you have communicated with about the</p> <p>25 Department of Justice's investigation?</p>

15 (Pages 54 - 57)

<p style="text-align: right;">Page 58</p> <p>1 A. I cannot.</p> <p>2 Q. Are there any other individuals at</p> <p>3 DDB who you recall communicating with about the</p> <p>4 Army's purchases of digital ads using Google</p> <p>5 products or services?</p> <p>6 A. I don't recall any.</p> <p>7 Q. Okay. If you had a choice, would you be</p> <p>8 participating in this lawsuit?</p> <p>9 MR. MCBIRNEY: Objection; vague. And</p> <p>10 calls for speculation.</p> <p>11 THE WITNESS: I -- I don't have a</p> <p>12 choice.</p> <p>13 BY MS. GOODMAN:</p> <p>14 Q. Okay. I'm asking if you had a choice,</p> <p>15 would you personally wish to be here today?</p> <p>16 MR. MCBIRNEY: Objection. Calls for</p> <p>17 speculation and vague.</p> <p>18 THE WITNESS: Yeah. I don't -- I don't</p> <p>19 know that I have an -- an answer to that. I</p> <p>20 can't speculate what would happen if I had the</p> <p>21 option, as I don't have the option.</p> <p>22 BY MS. GOODMAN:</p> <p>23 Q. What's your understanding as to why you</p> <p>24 don't have the option?</p> <p>25 A. Because I'm in the Army and the</p>	<p style="text-align: right;">Page 60</p> <p>1 participate? No human did that?</p> <p>2 MR. MCBIRNEY: Object to form.</p> <p>3 THE WITNESS: My best recollection</p> <p>4 is receiving a notice from Mr. Chase that Google</p> <p>5 had requested me, and my understanding of the</p> <p>6 communication was that the government was</p> <p>7 required to produce me because of the request.</p> <p>8 And so I'm not aware of there being either a need</p> <p>9 or a specific "someone ordering me." I</p> <p>10 understood my duty as to comply and make myself</p> <p>11 available to -- to Google's request that I be</p> <p>12 here.</p> <p>13 BY MS. GOODMAN:</p> <p>14 Q. Okay. And in providing that answer, are</p> <p>15 you relying on communications that you had with</p> <p>16 the Department of Justice?</p> <p>17 A. I am.</p> <p>18 MS. GOODMAN: So those communications he</p> <p>19 can testify to but none other?</p> <p>20 MR. MCBIRNEY: That he was told to</p> <p>21 comply he had to comply with a deposition notice?</p> <p>22 Sure.</p> <p>23 MS. GOODMAN: You're --</p> <p>24 BY MS. GOODMAN:</p> <p>25 Q. If -- to your knowledge, will the United</p>
<p style="text-align: right;">Page 59</p> <p>1 government has directed me to participate in this</p> <p>2 and that's my duty.</p> <p>3 Q. And when you say, "the government has</p> <p>4 directed you to participate in this," who in the</p> <p>5 government has directed your participation?</p> <p>6 A. I don't know that I can answer that</p> <p>7 specifically.</p> <p>8 Q. Can you answer it generally?</p> <p>9 MR. MCBIRNEY: Objection; vague.</p> <p>10 THE WITNESS: No.</p> <p>11 BY MS. GOODMAN:</p> <p>12 Q. Do you have any knowledge of who</p> <p>13 within the Army agreed to participate in this</p> <p>14 litigation?</p> <p>15 A. I don't have any knowledge of that.</p> <p>16 Q. Okay. And you have no knowledge of who</p> <p>17 in the government has directed your participation</p> <p>18 in this litigation. Is that a fair summary?</p> <p>19 MR. MCBIRNEY: Objection. Asked and</p> <p>20 answered.</p> <p>21 THE WITNESS: Yeah. I personally do not</p> <p>22 know.</p> <p>23 BY MS. GOODMAN:</p> <p>24 Q. Okay. So you don't know -- nobody</p> <p>25 -- nobody came to you and said you're required to</p>	<p style="text-align: right;">Page 61</p> <p>1 States request your attendance at any trial in</p> <p>2 this matter?</p> <p>3 MR. MCBIRNEY: Objection. Calls for</p> <p>4 speculation.</p> <p>5 THE WITNESS: I don't know the answer to</p> <p>6 that.</p> <p>7 BY MS. GOODMAN:</p> <p>8 Q. Have you had any discussions with</p> <p>9 anybody about your participation at a trial in</p> <p>10 this matter?</p> <p>11 MR. MCBIRNEY: Objection. You can</p> <p>12 answer that if it does not disclose</p> <p>13 communications with counsel.</p> <p>14 THE WITNESS: I have not.</p> <p>15 BY MS. GOODMAN:</p> <p>16 Q. Okay. Have you discussed this lawsuit</p> <p>17 with any individual from a state attorney general</p> <p>18 office?</p> <p>19 A. I have not.</p> <p>20 Q. Have you discussed an investigation of</p> <p>21 Google's digital advertising business with any</p> <p>22 individual from a state attorney general office?</p> <p>23 A. I have not.</p> <p>24 Q. Have you discussed the Army's purchases</p> <p>25 of digital ads using Google products or services</p>

<p style="text-align: right;">Page 62</p> <p>1 with any individual from a state attorney general 2 office?</p> <p>3 A. I have not.</p> <p>4 MS. GOODMAN: Shall we take a break?</p> <p>5 MR. MCBIRNEY: Sure.</p> <p>6 THE VIDEOGRAPHER: Going off the record. 7 The time is 10:47. 8 (Recess taken.) 9 THE VIDEOGRAPHER: Going back on the 10 record. The time is 11:12. 11 BY MS. GOODMAN: 12 Q. Colonel, what's your title -- well, 13 funny question, isn't it? 14 Colonel, what is your role at the Army 15 Enterprise Marketing Office? 16 A. I am the director for the strategy, 17 innovation and data directorate. 18 Q. How long have you held -- held that 19 role? 20 A. Since June 1st of 2022. 21 Q. And prior to June 1st of 2022, what 22 was your role at the Army Enterprise Marketing 23 Office? 24 A. I was the director for marketing 25 execution.</p>	<p style="text-align: right;">Page 64</p> <p>1 Q. Okay. And during that time period of 2 September '99 through May 2004, is it accurate 3 you worked at Proctor & Gam -- Proctor & Gamble 4 and Warsteiner USA? 5 A. That is correct. 6 Q. Are there any other places you worked in 7 that time period? 8 A. I was also self-employed for a short 9 period of time coaching high school lacrosse. 10 Q. What did you do at Proctor & Gamble? 11 A. I was an assistant brand manager. 12 Q. What did your job duties entail as 13 assistant brand manager at Proctor & Gamble? 14 A. Developing marketing plans for Cheer 15 laundry detergent, and also working in new 16 business development investigating the 17 possibility of new product launches. 18 Q. As an assistant brand manager for 19 Cheer, what role did you have in determining an 20 advertising strategy for that product? 21 A. I was part of a -- a small team that 22 developed the overall marketing plan for Cheer. 23 And so my contributions, as any other member 24 of the team, would have been research with the 25 consumer, understanding market penetration, share</p>
<p style="text-align: right;">Page 63</p> <p>1 Q. And how long did you hold that role? 2 A. I was in that position from, 3 approximately, 8th of July through 31 May 4 -- correction. 8th of July 2021 through 8th 5 of -- 31st of May 2022. 6 Q. And prior to the 8th of July 2021, did 7 you work at the Army Enterprise Marketing Office? 8 A. I did not. 9 Q. Okay. Were you active duty during that 10 time -- 11 A. Yes. 12 Q. -- elsewhere? 13 And you took a break in service to work 14 in the private sector. Is that accurate? 15 A. That's correct. 16 Q. When did you do that? 17 A. That was end of September 1999 through, 18 on or about, May 31st, 2004. 19 Q. Okay. Why did you decide to take a 20 break in active service between September 1999 21 and May 31st, 2004? 22 A. Because at that time in my then short 23 period on active duty, I had three deployments 24 already, all in -- in Yugoslavia, and I was 25 looking for something different.</p>	<p style="text-align: right;">Page 65</p> <p>1 data, and then developing plans as to how we 2 might, you know, grow share or -- or improve the 3 business overall. 4 Q. Did you have any role in determining 5 what advertising tactics to use? 6 A. Yes. 7 Q. Okay. Can you describe that for me, 8 your role in that regard? 9 A. My role was, I think, primarily as 10 a -- as a contributor, again, to a -- a team 11 effort in either the development of a specific 12 creative materials. Also, at that time, I had 13 led a small project to develop a -- a Cheer 14 website. And then I also handled a lot of, like, 15 promotional activities from the standpoint of 16 coupons, and things like that, that are common in 17 that category. 18 Q. In this time period of 1999 to 2004, 19 what advertising channels did you consider in 20 your role as assistant brand manager for 21 promoting Cheer? 22 A. At that time, primarily TV. But also 23 magazine, print, coupons, which would typically 24 be delivered in -- in Sunday papers and out of 25 home. And then, again, as I said, the</p>

<p style="text-align: right;">Page 66</p> <p>1 development of our -- of our own website. There</p> <p>2 -- there may have been other channels considered,</p> <p>3 but this far along I -- I don't recall which</p> <p>4 others those might have been.</p> <p>5 Q. Okay. Were any digital channels other</p> <p>6 than developing a website considered at that</p> <p>7 time?</p> <p>8 A. I don't recall there being any other</p> <p>9 digital channels really available to be a part of</p> <p>10 the plan at that point.</p> <p>11 Q. And what -- what time period did you</p> <p>12 work at Proctor & Gamble as a assistant brand</p> <p>13 manager?</p> <p>14 A. From September of '99. May of 2002.</p> <p>15 I -- I'm not entirely certain, but it would have</p> <p>16 been on or around then.</p> <p>17 Q. Okay. Why did you leave Proctor &</p> <p>18 Gamble?</p> <p>19 A. I had an opportunity to pursue a brand</p> <p>20 manager position at Warsteiner Importers.</p> <p>21 Q. Okay. And what were your job duties as</p> <p>22 a brand manager at Warsteiner Importers?</p> <p>23 A. It was to develop basic marketing plans</p> <p>24 for a line of beers that Warsteiner Importers</p> <p>25 imported into the United States.</p>	<p style="text-align: right;">Page 68</p> <p>1 participation, like the local city Oktoberfest</p> <p>2 or -- or that nature of -- that nature of thing.</p> <p>3 And then packaging redesign is one of the things</p> <p>4 that we did.</p> <p>5 Q. Did you consider any digital advertising</p> <p>6 strategies in your role as brand manager for</p> <p>7 Wa -- Warsteiner Importers?</p> <p>8 A. Not particularly. I think that once I</p> <p>9 got there and found -- the -- the president was</p> <p>10 a former route salesman, who had ascended to the</p> <p>11 position, that his focus ended up being much more</p> <p>12 on what are we doing in the bar than -- than I</p> <p>13 had maybe been led to believe. And so there</p> <p>14 wasn't a lot of advertising in the sense of what</p> <p>15 someone who's involved in brand management might</p> <p>16 be familiar with, and it was more along the lines</p> <p>17 of his interest in on-premise promotions.</p> <p>18 Q. Okay. And what -- when did you leave</p> <p>19 that job?</p> <p>20 A. Perhaps February or March of the</p> <p>21 next year. I -- I can't -- I can't recall</p> <p>22 specifically.</p> <p>23 Q. Do you think it was -- you were in that</p> <p>24 job for less than a year?</p> <p>25 A. Perhaps less than full 12 months. That</p>
<p style="text-align: right;">Page 67</p> <p>1 Q. Which line of beers?</p> <p>2 A. Warsteiner. König Ludwig. Two others</p> <p>3 that, frankly, escape my mind right now. They</p> <p>4 were all part of the same brewery operation,</p> <p>5 though, in Germany, so they were all,</p> <p>6 essentially, part of the same family of -- of</p> <p>7 brands.</p> <p>8 Q. And what role did you have with respect</p> <p>9 to determining the advertising strategy for those</p> <p>10 beer brands?</p> <p>11 A. Mm-hmm. I had a role in making</p> <p>12 recommendations to the president; however, what</p> <p>13 I found was it was primarily -- primarily the</p> <p>14 president's desired strategy was around</p> <p>15 on-premise promotional activities, and so there</p> <p>16 were only a few what we would -- might, you know,</p> <p>17 consider typical advertising, actually.</p> <p>18 Q. And of the few kinds of typical</p> <p>19 advertising, what were they, that you worked on?</p> <p>20 A. There was -- there was a promotional</p> <p>21 event around the Western Southern Tennis Open.</p> <p>22 So it was some sponsorship, along with some TV</p> <p>23 placement that was associated with that</p> <p>24 sponsorship buy. And then it was largely, sort</p> <p>25 of as I mentioned, on-premise, but maybe event</p>	<p style="text-align: right;">Page 69</p> <p>1 might be accurate.</p> <p>2 Q. Okay.</p> <p>3 A. I can't recall that for sure.</p> <p>4 Q. And so then were you self-employed</p> <p>5 in between leaving that job at Warsteiner and</p> <p>6 May 31st, 2004?</p> <p>7 A. That's correct.</p> <p>8 Q. Okay. In the time period between May</p> <p>9 31st, 2004, and when you joined AEMO in July of</p> <p>10 2021, did you have any job responsibilities</p> <p>11 related to marketing or advertising?</p> <p>12 A. No.</p> <p>13 Q. Okay. In that time period, what were</p> <p>14 your principal job responsibilities in the United</p> <p>15 States Army?</p> <p>16 A. That's a very broad time period. Can</p> <p>17 you be more specific?</p> <p>18 Q. What did you do during that time period</p> <p>19 for the Army?</p> <p>20 A. I had many jobs during that time period</p> <p>21 over many locations, as a typical Army officer in</p> <p>22 the Armor and Cavalry branch in typical career</p> <p>23 progression.</p> <p>24 Q. Okay. And for -- for the benefit of the</p> <p>25 record, what is the -- what are the different</p>

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<p>1 jobs you had during that time period?</p> <p>2 A. I -- I was a company commander. I was</p> <p>3 a battalion assistant staff officer. I was a</p> <p>4 battalion operations officer. I was a brigade</p> <p>5 operations officer. I was an OC at JMRC. I</p> <p>6 was a student in the Commanding General Staff</p> <p>7 College. I was a squadron executive officer. I</p> <p>8 was a chief of plans. I was squadron commander.</p> <p>9 I was an OC at the JRTC. I was a student at the</p> <p>10 Army War College. And then, eventually at AEMO.</p> <p>11 And at the very beginning of that time I was a</p> <p>12 member of the Ohio Army National Guard.</p> <p>13 Q. What's the JMRC?</p> <p>14 A. The Joint Multinational Readiness</p> <p>15 Center.</p> <p>16 Q. What is the JRTC?</p> <p>17 A. The Joint Readiness Training Center.</p> <p>18 Q. What does an OC mean?</p> <p>19 A. That's an observer/controller. It's</p> <p>20 an individual who observes/controls training</p> <p>21 exercises and also teaches or trains your peer</p> <p>22 to help Army units improve in their tactical</p> <p>23 abilities and operations.</p> <p>24 Q. Okay. What did you study at the general</p> <p>25 staff college -- the Commanding General Staff</p>	<p>1 advertising or brand management classes?</p> <p>2 A. No.</p> <p>3 Q. So is it fair to say that --</p> <p>4 A. Let me make a correction. There was a</p> <p>5 class -- I don't remember the exact title, but</p> <p>6 there was an elective opportunity to be in a</p> <p>7 class that talked about, more or less, recruiting</p> <p>8 in the Army. I don't know that it was -- I -- as</p> <p>9 a student and a participant then, I wouldn't say</p> <p>10 it was truly a marketing class, but it was at</p> <p>11 least related.</p> <p>12 Q. How did you come to obtain your position</p> <p>13 as the director of marketing execution in July of</p> <p>14 2021 at AEMO?</p> <p>15 A. In summer of 2019, as I was moving from</p> <p>16 Fort Stewart to Fort Polk, leaving squadron</p> <p>17 command to take on the assignment as the Senior</p> <p>18 Calvary OC at JRTC, I received a call from an</p> <p>19 individual I had known from a previous</p> <p>20 assignment, Greg Campion, who worked in the</p> <p>21 Assistant Secretary of the Army for Manpower and</p> <p>22 Reserve Affairs Office, saying that they were</p> <p>23 beginning a new office and they had reviewed the</p> <p>24 information in my soldier record brief and -- and</p> <p>25 resume within the Army's personnel data systems</p>
Page 71	Page 73
<p>1 College?</p> <p>2 A. I pursued the typical standard course of</p> <p>3 study along with some added emphasis in history</p> <p>4 and in the Balkan Region.</p> <p>5 Q. What is the typical course of study</p> <p>6 offered at the Commanding General Staff College?</p> <p>7 A. There are courses in history,</p> <p>8 in leadership, in defense processes, in</p> <p>9 operational-level tactics and maneuvers. And</p> <p>10 there are some elective courses, as well, that</p> <p>11 you can take advantage of.</p> <p>12 Q. Did you take any classes with respect to</p> <p>13 marketing or advertising?</p> <p>14 A. No.</p> <p>15 Q. When you were a student at the Army War</p> <p>16 College, what did you study?</p> <p>17 A. I also took the standard course of</p> <p>18 -- the standard offering.</p> <p>19 Q. Which is what?</p> <p>20 A. Classes in history. Classes in</p> <p>21 leadership. Classes in defense processes. Some</p> <p>22 elective classes. I can't recall all the -- the</p> <p>23 name or title of every class, but those are all</p> <p>24 what every student predominantly takes.</p> <p>25 Q. Did you take any marketing or</p>	<p>1 and asked if I would be interested. And I had</p> <p>2 just arrived at JRTC, and we were just about to</p> <p>3 start a rotation; and my departure would have</p> <p>4 left the organization short-handed. And I was a</p> <p>5 classmate of my boss and didn't want to leave him</p> <p>6 hanging so I said -- I politely declined. I'm</p> <p>7 here at JRTC; I need to stay here; you should</p> <p>8 have called me a couple months ago.</p> <p>9 Then later that year, same calendar</p> <p>10 year, 2019 December, if I recall correctly, the</p> <p>11 Army published a MLPR, which is a -- I don't</p> <p>12 know the exact military personnel notice that</p> <p>13 the Army was establishing a new functional area,</p> <p>14 Functional Area 58, Marketing and Behavioral</p> <p>15 Economics; and that officers who met the basic</p> <p>16 application requirements were encouraged to</p> <p>17 apply.</p> <p>18 I spoke with my family about it and went</p> <p>19 ahead and put an application in, went through the</p> <p>20 application process. Was eventually selected and</p> <p>21 notified, and then I was actually changed in my</p> <p>22 branch from Armor to Functional Area 58; however,</p> <p>23 I was going to the War College still. And as far</p> <p>24 as being assigned to the position as I finished</p> <p>25 War College, I was just assigned the position by</p>

<p style="text-align: right;">Page 178</p> <p>1 1600 today unless you object," would it be your</p> <p>2 normal practice by this time to have already</p> <p>3 consulted with Major Morris and concurred with</p> <p>4 his recommendation as reflected here?</p> <p>5 MR. MCBIRNEY: Object to form.</p> <p>6 THE WITNESS: I'm sorry. I -- could you</p> <p>7 repeat that?</p> <p>8 BY MS. GOODMAN:</p> <p>9 Q. Yeah. Let me ask it a bit differently.</p> <p>10 A. Okay.</p> <p>11 Q. With when he says, "We concur with their</p> <p>12 recommendation," --</p> <p>13 A. Mm-hmm.</p> <p>14 Q. -- based on your practices with respect</p> <p>15 to consulting with Major Morris, are you included</p> <p>16 in the "we"?</p> <p>17 MR. MCBIRNEY: Objection. Calls for</p> <p>18 speculation.</p> <p>19 THE WITNESS: Based on the addressee,</p> <p>20 the addresser, no. We -- I infer Major Morris</p> <p>21 -- then Major Morris's email to indicate his</p> <p>22 team, composed of Major Nelson, himself and Major</p> <p>23 Flynn; that that is the "we," the paid media</p> <p>24 team.</p> <p>25 BY MS. GOODMAN:</p>	<p style="text-align: right;">Page 180</p> <p>1 plan?</p> <p>2 A. I don't recall a specific time where I</p> <p>3 did not agree with a recommendation.</p> <p>4 Q. Okay. Can we go back to Exhibit 63,</p> <p>5 please?</p> <p>6 A. Mm-hmm.</p> <p>7 Q. And I would like to direct your</p> <p>8 attention to Page --</p> <p>9 A. I'm sorry. Do you mean 62?</p> <p>10 Q. I'm sorry. Yes. Yes.</p> <p>11 Page 390.</p> <p>12 A. Okay.</p> <p>13 Q. And you see the first subline beginning</p> <p>14 Investment Approaching Key Selection Criteria?</p> <p>15 A. Yes, ma'am.</p> <p>16 Q. Okay. Now I just want to turn to the</p> <p>17 next page where it discusses that in more depth.</p> <p>18 Based on your review of this slide and your role</p> <p>19 as the director of marketing execution, do you</p> <p>20 understand this slide to be depicting DDB's</p> <p>21 efforts at finding partners for the Army's</p> <p>22 advertising?</p> <p>23 MR. MCBIRNEY: Objection; foundation.</p> <p>24 THE WITNESS: I interpret this slide to</p> <p>25 be a layout of what the paid media team has</p>
<p style="text-align: right;">Page 179</p> <p>1 Q. And all those individuals on the cc</p> <p>2 line, are they all part of the paid media team?</p> <p>3 A. At that time that this was written,</p> <p>4 Major Nelson was, Major Flynn was, Major</p> <p>5 Dziengelewski was not, but he is the -- he was</p> <p>6 the data and performance. And that -- actually,</p> <p>7 at that time I believe he was still the CPH lead.</p> <p>8 Q. I see. But as CPH lead, he had a role</p> <p>9 with respect to analyzing performance and making</p> <p>10 recommendations for optimizations. Is that a</p> <p>11 fair --</p> <p>12 A. At that time in his role in that</p> <p>13 position was directly with the MMM production.</p> <p>14 Q. Okay. How do you say his last name</p> <p>15 again?</p> <p>16 A. Dziengelewski.</p> <p>17 Q. Dziengelewski. He also goes by Major</p> <p>18 DZ?</p> <p>19 A. He goes by Major DZ, because he feels</p> <p>20 most people can't pronounce it in proper Russian,</p> <p>21 which he's probably correct.</p> <p>22 Q. Yes.</p> <p>23 Okay. Do you recall any instance</p> <p>24 where did you -- where you did not agree with a</p> <p>25 recommendation with respect to an optimization</p>	<p style="text-align: right;">Page 181</p> <p>1 determined to be five evaluation criteria and</p> <p>2 then how collectively the paid media team and</p> <p>3 contractor at DDB has assessed each of these</p> <p>4 various vendors as aligning with the evaluation</p> <p>5 criteria.</p> <p>6 BY MS. GOODMAN:</p> <p>7 Q. I see. And to the right you see it says</p> <p>8 "40-plus"?</p> <p>9 A. I do.</p> <p>10 Q. And that means that DDB evaluated more</p> <p>11 than 40 vendors according to these criteria. Is</p> <p>12 that accurate?</p> <p>13 MR. MCBIRNEY: Objection; foundation.</p> <p>14 THE WITNESS: Yeah. I don't know the</p> <p>15 answer to that. It's unclear to me what the</p> <p>16 "40-plus" refers to on this slide.</p> <p>17 BY MS. GOODMAN:</p> <p>18 Q. Okay.</p> <p>19 A. The five is clear. The 40-plus is not</p> <p>20 clear to me.</p> <p>21 Q. Under the box Getting Us To Goal,</p> <p>22 where it says cross-platform scalability</p> <p>23 -- scalability, what do you understand that</p> <p>24 to mean?</p> <p>25 MR. MCBIRNEY: Objection; foundation.</p>

<p style="text-align: right;">Page 182</p> <p>1 THE WITNESS: I'm sorry. Which box?</p> <p>2 Oh, is that the large box?</p> <p>3 BY MS. GOODMAN:</p> <p>4 Q. Yeah. Getting Us To Goal.</p> <p>5 A. I understand the word scalability.</p> <p>6 I would probably have to ask the briefer what</p> <p>7 they mean by "cross-platform scalability."</p> <p>8 Q. Okay. Looking at the evaluation</p> <p>9 criteria, do you have a view with respect to</p> <p>10 Google's performance on the first item for -- on</p> <p>11 the first criteria, Army Brand and Audience</p> <p>12 Alignment?</p> <p>13 MR. MCBIRNEY: Objection; vague.</p> <p>14 THE WITNESS: I'm not sure that</p> <p>15 Google has a performance. I'm not sure that that</p> <p>16 particular evaluation criteria is a performance,</p> <p>17 per se. You would have to define performance</p> <p>18 alignment. I think that's more an assessment</p> <p>19 of whether we believe there is a brand fit and</p> <p>20 whether that particular platform can deliver our</p> <p>21 desired audience given this particular media</p> <p>22 plan.</p> <p>23 BY MS. GOODMAN:</p> <p>24 Q. Got it.</p> <p>25 And did -- have you ever formed an</p>	<p style="text-align: right;">Page 184</p> <p>1 Q. What's your view?</p> <p>2 A. Search has been a positive performer in</p> <p>3 lead-generation.</p> <p>4 Q. Okay. Same question as to YouTube.</p> <p>5 A. I don't know that I have a positive</p> <p>6 or negative assessment of YouTube, other than I</p> <p>7 understand that there's quite a bit of traffic</p> <p>8 and we've assessed its inclusion as a channel</p> <p>9 even separate, that's why there's YouTube and</p> <p>10 non-YouTube video, because of just quantity of</p> <p>11 -- of views or impressions. So my assessment or</p> <p>12 impression formed is that it's a viable channel.</p> <p>13 Q. How about Discovery? Same question as</p> <p>14 to Discovery.</p> <p>15 A. I -- I honestly can't recall specific</p> <p>16 Discovery performance in the same way as Search.</p> <p>17 So I don't have an opinion one way or the other</p> <p>18 on -- or that I can recall the specific numbers</p> <p>19 on performance of -- of Discovery.</p> <p>20 Q. And then how about with respect to</p> <p>21 Display?</p> <p>22 A. I have formed an opinion on Display.</p> <p>23 Q. Okay. What is your opinion on Google's</p> <p>24 Display per -- historical performance vis-a-vis</p> <p>25 Display?</p>
<p style="text-align: right;">Page 183</p> <p>1 assessment of the alignment between Google and</p> <p>2 the Army with respect to this evaluation criteria</p> <p>3 -- this particular criteria we're discussing?</p> <p>4 A. I've never been provided any information</p> <p>5 which would make me believe that, from an Army</p> <p>6 brand and Google perspective, that there would be</p> <p>7 an issue. I can't recite specific numbers on</p> <p>8 audience alignment and Google, but I've never</p> <p>9 been prevented -- presented any information which</p> <p>10 would make me think that Google cannot deliver</p> <p>11 the audience that we're looking for.</p> <p>12 Q. Okay. And have you ever formed a view</p> <p>13 of Google's historical performance as reflected</p> <p>14 in the second criteria?</p> <p>15 MR. MCBIRNEY: Objection; vague.</p> <p>16 THE WITNESS: Given that there's</p> <p>17 different Google products, can you be more</p> <p>18 specific?</p> <p>19 BY MS. GOODMAN:</p> <p>20 Q. Let's start with Search.</p> <p>21 A. Okay.</p> <p>22 Q. Have you formed a view of Google's</p> <p>23 performance -- historical performance for the</p> <p>24 Army on Search?</p> <p>25 A. I have.</p>	<p style="text-align: right;">Page 185</p> <p>1 A. My opinion formed after viewing several</p> <p>2 quarters of MMM results is that Display has been</p> <p>3 an inefficient channel for the Army to deliver</p> <p>4 its recruiting message.</p> <p>5 Q. And is that a view you formed which is</p> <p>6 specific to Google's Display offerings or extend</p> <p>7 beyond Google?</p> <p>8 A. I don't know specifically who else might</p> <p>9 provide that, so my assessment's not necessarily</p> <p>10 with full knowledge of the options that might be</p> <p>11 or the providers that may exist, only that</p> <p>12 -- that the channel/tactic itself just did not</p> <p>13 bear out in our reports that it was working as</p> <p>14 well as some other efforts were.</p> <p>15 Q. And did you ever discuss that with</p> <p>16 anybody at Google, the inefficiencies of dIspIay?</p> <p>17 A. I don't recall a time where we had</p> <p>18 occasion to discuss our actual performance, or</p> <p>19 that I was involved in with Google.</p> <p>20 Q. Okay. Have you been involved in any</p> <p>21 discussions about using a different provider of</p> <p>22 display advertising than Google?</p> <p>23 A. I have not been involved in a discussion</p> <p>24 like that.</p> <p>25 Q. Do you know whether the Army, in fact,</p>

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<p>1 uses more than one provider of display</p> <p>2 advertising?</p> <p>3 A. I do not know who or how many are even</p> <p>4 available. I don't know the answer to that.</p> <p>5 Q. Okay. Let's go to Estimated Potential</p> <p>6 for Efficient ROI. Have you formed an assessment</p> <p>7 of Google's potential for efficient ROI?</p> <p>8 MR. MCBIRNEY: Objection; vague.</p> <p>9 THE WITNESS: Again, any assessment</p> <p>10 would be not of Google as a whole, but of</p> <p>11 depending on the channel product itself.</p> <p>12 BY MS. GOODMAN:</p> <p>13 Q. Okay. So let's talk first about Search.</p> <p>14 What is your view on the potential for efficient</p> <p>15 ROI with respect to Search?</p> <p>16 A. The information that I've seen</p> <p>17 throughout our quarterly MMMs has indicated or</p> <p>18 given me the impression that Search has been an</p> <p>19 efficient channel for us.</p> <p>20 Q. Same question as to YouTube.</p> <p>21 A. Generally speaking, as I can best recall</p> <p>22 from the MMM reports, YouTube tends to perform</p> <p>23 fairly well comparatively on an efficiency</p> <p>24 standpoint relative to the various channels in</p> <p>25 the marketing mix.</p>	<p>1 distribution of our message, I don't see how</p> <p>2 Google has a role in protecting, considering it's</p> <p>3 available to so many. I wouldn't think they have</p> <p>4 a role in protecting anybody's. That's our</p> <p>5 responsibility to look at and assess where any</p> <p>6 distribution platform, channel, site that we may</p> <p>7 be -- any -- any of those things, any of these</p> <p>8 actual media networks or properties are a fit for</p> <p>9 brand safety.</p> <p>10 BY MS. GOODMAN:</p> <p>11 Q. I see.</p> <p>12 A. So I don't think Google is a yes or a no</p> <p>13 specifically.</p> <p>14 Q. Do you view Google as a risky</p> <p>15 distribution channel for the brand safety of the</p> <p>16 Army?</p> <p>17 MR. MCBIRNEY: Objection; vague and</p> <p>18 foundation.</p> <p>19 THE WITNESS: During the time that I've</p> <p>20 been at AEMO, I'm certainly not aware of anything</p> <p>21 that would give me pause or concern with respect</p> <p>22 to working with Google being a risk to brand</p> <p>23 safety.</p> <p>24 BY MS. GOODMAN:</p> <p>25 Q. And then the last criteria, flexible</p>
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<p>1 Q. And how about with respect to Discovery?</p> <p>2 A. I don't know the answer to that one.</p> <p>3 Q. Okay. And how about with respect to</p> <p>4 display?</p> <p>5 A. I don't know which all partners may or</p> <p>6 may not be involved in display. I know that our</p> <p>7 MMM results have shown that display, in general,</p> <p>8 has not performed at the same efficient rate as</p> <p>9 other options available to us.</p> <p>10 Q. Okay. What is your assessment of</p> <p>11 Google's ability to maintain expected levels of</p> <p>12 brand safety?</p> <p>13 MR. MCBIRNEY: Objection; vague and</p> <p>14 foundation.</p> <p>15 THE WITNESS: I think there's a measure</p> <p>16 of risk assessment involved in that that we have</p> <p>17 to constantly assess and reassess in light of</p> <p>18 current market conditions and activities or</p> <p>19 events in the information sphere and that may</p> <p>20 change from time period to time period.</p> <p>21 BY MS. GOODMAN:</p> <p>22 Q. And does Google, in your view, help</p> <p>23 protect the brand safety of the Army?</p> <p>24 MR. MCBIRNEY: Objection; foundation.</p> <p>25 THE WITNESS: As a platform for the</p>	<p>1 cancellation terms adherence to industry-standard</p> <p>2 contractual out clauses, do you have any ability</p> <p>3 to assess Google's flexible cancellation terms,</p> <p>4 one way or another?</p> <p>5 A. I do not.</p> <p>6 Q. Okay. Do you recall attending a Google</p> <p>7 Marketing Live event?</p> <p>8 MR. MCBIRNEY: Objection; vague.</p> <p>9 THE WITNESS: Can you be specific about</p> <p>10 the timing?</p> <p>11 BY MS. GOODMAN:</p> <p>12 Q. Sure can. Give me a sec.</p> <p>13 Summer of 2022.</p> <p>14 A. Is there a document that I can review?</p> <p>15 Q. I do not have it, no. I'm sorry.</p> <p>16 A. I have recollection of attending events</p> <p>17 with Google, but I can't attest to the date,</p> <p>18 specifically.</p> <p>19 Q. Okay. What -- how many events do you</p> <p>20 recall attending with Google?</p> <p>21 A. Two.</p> <p>22 Q. What were those two events that you are</p> <p>23 recalling?</p> <p>24 A. One was in Chicago at the local office</p> <p>25 -- I assume to be the local office of -- of</p>


<p style="text-align: right;">Page 190</p> <p>1 Google. And the other was in California at the</p> <p>2 headquarters.</p> <p>3 Q. Okay. Starting with the first event you</p> <p>4 recall at the local office of Google, what was</p> <p>5 that event? What -- what took place at that</p> <p>6 event?</p> <p>7 A. That was an educational event hosted</p> <p>8 by Google to inform Army marketers on Google</p> <p>9 products, how other customers have been able to</p> <p>10 be successful or not, TTPs or what we say in the</p> <p>11 Army, tactics, technique, procedures, meaning</p> <p>12 just generally how you go about things, so to</p> <p>13 share with us information about how we might</p> <p>14 either perform better or continue to perform</p> <p>15 well or use products effectively.</p> <p>16 Q. Did you find that event informative?</p> <p>17 A. Yes.</p> <p>18 Q. Did you find it useful?</p> <p>19 A. I found the discussion stimulating.</p> <p>20 I can't recall me specifically going back and</p> <p>21 -- and then using something from there in the</p> <p>22 course of my routine duties.</p> <p>23 Q. Did that educational event provide any</p> <p>24 value, from your point of view, to the Army?</p> <p>25 A. I would say in that knowledge and</p>	<p style="text-align: right;">Page 192</p> <p>1 A. I mean, I generally recall the room and</p> <p>2 that we had slides and that there were a number</p> <p>3 of presenters on a number of topics. I don't</p> <p>4 recall what all the topics were specifically,</p> <p>5 but --</p> <p>6 Q. Do you recall any of the topics?</p> <p>7 A. No, I don't.</p> <p>8 Q. Okay. Let's turn to the event at the</p> <p>9 California -- in California at HQ -- was that at</p> <p>10 Google's headquarters?</p> <p>11 A. It was.</p> <p>12 Q. Okay. And did other marketing</p> <p>13 professionals from the other branches of the</p> <p>14 military attend that, to your recollection?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. What -- what was the purpose of</p> <p>17 that event?</p> <p>18 A. I was attending on behalf of</p> <p>19 Major General Fink. My understanding of the</p> <p>20 purpose, it was similar to the earlier meeting</p> <p>21 in Chicago, but a year later and, more broadly,</p> <p>22 participation from the other services, whereas</p> <p>23 the first was Army only. And this had other</p> <p>24 services, all, in my perception, with the same</p> <p>25 intent to educate the audience on certain aspects</p>
<p style="text-align: right;">Page 191</p> <p>1 education is always valuable, I certainly</p> <p>2 couldn't ascribe a particular quantity or figure</p> <p>3 or dollar figure of value.</p> <p>4 Q. Sure. But the knowledge and education</p> <p>5 that Google provided you at that event, did you</p> <p>6 consider that valuable?</p> <p>7 MR. MCBIRNEY: Objection. Asked and</p> <p>8 answered.</p> <p>9 THE WITNESS: At the time, I felt</p> <p>10 the information and the conversations that it</p> <p>11 generated were helpful to the marketing team.</p> <p>12 BY MS. GOODMAN:</p> <p>13 Q. Do you know who from Google was at that</p> <p>14 event? Do you recall?</p> <p>15 A. There were a number of presenters, and,</p> <p>16 frankly, I don't remember everyone's name.</p> <p>17 Q. Do you remember anybody's name?</p> <p>18 A. No.</p> <p>19 Q. Okay.</p> <p>20 A. I know that there was an individual who</p> <p>21 had government in their portfolio. But as far</p> <p>22 as all their names, I -- unfortunately, I don't</p> <p>23 recall.</p> <p>24 Q. Is there anything else that you, sitting</p> <p>25 here today, recall about that event?</p>	<p style="text-align: right;">Page 193</p> <p>1 of Google's product line and give examples of</p> <p>2 how some of their customers have used them</p> <p>3 effectively.</p> <p>4 Q. Did you find that event to be</p> <p>5 informative?</p> <p>6 A. I did. And I found it useful because</p> <p>7 it's one of the first events I was at where the</p> <p>8 other services were also there, and so it also</p> <p>9 enabled some cross-service discussion on</p> <p>10 challenges, successes.</p> <p>11 Q. Did you find that event to provide value</p> <p>12 to the Army?</p> <p>13 A. It did in that I actually was able to</p> <p>14 provide some -- or -- or put some face to names</p> <p>15 of my counterparts in the Air Force and Navy,</p> <p>16 which has facilitated some dialogue post that</p> <p>17 meeting.</p> <p>18 Q. What dialogue has that facilitated?</p> <p>19 What dialogue has that meeting facilitated with</p> <p>20 your counterparts in the other branches of the</p> <p>21 armed services?</p> <p>22 A. I'll occasionally reach out and ask</p> <p>23 something that they may be doing or see if there</p> <p>24 might be an opportunity for us to do something</p> <p>25 together, or just ask questions about approaches</p>

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<p>1 MR. MCBIRNEY: Objection. Calls for a</p> <p>2 legal conclusion and lack of foundation.</p> <p>3 MS. GOODMAN: What is the legal</p> <p>4 conclusion that the question "how does money get</p> <p>5 paid out to vendors" --</p> <p>6 MR. MCBIRNEY: You asked --</p> <p>7 MS. GOODMAN: -- call for a legal</p> <p>8 conclusion?</p> <p>9 MR. MCBIRNEY: You asked how it gets</p> <p>10 paid out under a contract, so I assume you're</p> <p>11 asking how the contract dictates certain forms of</p> <p>12 payment. If you want to ask him how does money</p> <p>13 get paid out, that's a different question.</p> <p>14 BY MS. GOODMAN:</p> <p>15 Q. Okay. Colonel, do you know how money</p> <p>16 is paid for the purchase of display ad -- any</p> <p>17 advertising?</p> <p>18 A. The only thing that I understand in</p> <p>19 the process is that an invoice is received, the</p> <p>20 COR verifies that the government received the</p> <p>21 services or the benefits of and that that</p> <p>22 information is transmitted to finance individuals</p> <p>23 or resource management in the business management</p> <p>24 directorate, who then affect whatever is required</p> <p>25 to actually transfer funds.</p>	<p>1 BY MS. GOODMAN:</p> <p>2 Q. To your knowledge, did the Army purchase</p> <p>3 any Open Web Display Advertising from Google?</p> <p>4 MR. MCBIRNEY: Objection. Calls for a</p> <p>5 legal conclusion. Lack of foundation.</p> <p>6 MS. GOODMAN: What's the legal</p> <p>7 conclusion that question called for?</p> <p>8 MR. MCBIRNEY: I'm sorry. I withdraw</p> <p>9 that objection. Lack of foundation.</p> <p>10 BY MS. GOODMAN:</p> <p>11 Q. Okay. Colonel, to your knowledge,</p> <p>12 did the Army purchase any Open Web Display</p> <p>13 Advertising from Google?</p> <p>14 MR. MCBIRNEY: Same objection.</p> <p>15 THE WITNESS: I don't have any direct</p> <p>16 knowledge of that.</p> <p>17 BY MS. GOODMAN:</p> <p>18 Q. To your knowledge, did the Army pay</p> <p>19 Google directly for the use of DV360?</p> <p>20 MR. MCBIRNEY: Objection. Calls for a</p> <p>21 legal conclusion. Lack of foundation.</p> <p>22 THE WITNESS: I don't have any knowledge</p> <p>23 of that.</p> <p>24 BY MS. GOODMAN:</p> <p>25 Q. To your knowledge, did the Army pay</p>
Page 223	Page 225
<p>1 Q. Do you know who sends -- who issues the</p> <p>2 invoices that you're referencing?</p> <p>3 A. I -- not necessarily, I don't.</p> <p>4 Q. Okay. To your knowledge, did the</p> <p>5 Army purchase any ad tech services directly from</p> <p>6 Google?</p> <p>7 MR. MCBIRNEY: Objection. Calls for a</p> <p>8 legal conclusion, and lack of foundation.</p> <p>9 THE WITNESS: I don't have any knowledge</p> <p>10 of -- of that occurring.</p> <p>11 BY MS. GOODMAN:</p> <p>12 Q. To your knowledge, did the Army purchase</p> <p>13 any display advertising directly from Google?</p> <p>14 MR. MCBIRNEY: Objection. Calls for a</p> <p>15 legal conclusion. Lack of foundation.</p> <p>16 THE WITNESS: I don't have any personal</p> <p>17 knowledge of that.</p> <p>18 BY MS. GOODMAN:</p> <p>19 Q. To your knowledge, did the Army purchase</p> <p>20 any open web display advertising directly from</p> <p>21 Google?</p> <p>22 MR. MCBIRNEY: Objection. Calls for a</p> <p>23 legal conclusion. Lack of foundation.</p> <p>24 THE WITNESS: I don't have any personal</p> <p>25 knowledge of that.</p>	<p>1 Google directly for the use of Google Ads?</p> <p>2 MR. MCBIRNEY: Objection. Calls for a</p> <p>3 legal conclusion. Lack of foundation.</p> <p>4 THE WITNESS: I don't have any knowledge</p> <p>5 of that.</p> <p>6 BY MS. GOODMAN:</p> <p>7 Q. To your knowledge, did the Army pay</p> <p>8 Google directly for the use of AdWords?</p> <p>9 MR. MCBIRNEY: Objection. Calls for a</p> <p>10 legal conclusion. Lack of foundation.</p> <p>11 THE WITNESS: I don't have any knowledge</p> <p>12 of that.</p> <p>13 BY MS. GOODMAN:</p> <p>14 Q. To your knowledge, did the Army pay</p> <p>15 Google directly for the use of Google Display</p> <p>16 Network?</p> <p>17 MR. MCBIRNEY: Objection. Calls for a</p> <p>18 legal conclusion. Lack of foundation.</p> <p>19 THE WITNESS: I don't have any knowledge</p> <p>20 of that.</p> <p>21 BY MS. GOODMAN:</p> <p>22 Q. To your knowledge did the Army pay</p> <p>23 Google directly for the use of Google Marketing</p> <p>24 Platform?</p> <p>25 MR. MCBIRNEY: Objection. Calls for a</p>

<p style="text-align: right;">Page 226</p> <p>1 legal conclusion. Lack of foundation.</p> <p>2 THE WITNESS: I don't have any knowledge</p> <p>3 of that.</p> <p>4 BY MS. GOODMAN:</p> <p>5 Q. To your knowledge, did the Army pay</p> <p>6 Google directly for the use of Campaign Manager?</p> <p>7 MR. MCBIRNEY: Objection. Calls for a</p> <p>8 legal conclusion. Lack of foundation.</p> <p>9 THE WITNESS: I don't have any knowledge</p> <p>10 of that.</p> <p>11 BY MS. GOODMAN:</p> <p>12 Q. To your knowledge, did the Army pay</p> <p>13 Google directly for the use of Google Ad Manager?</p> <p>14 MR. MCBIRNEY: Objection. Calls for a</p> <p>15 legal conclusion. Lack of foundation.</p> <p>16 THE WITNESS: I don't have any knowledge</p> <p>17 of that.</p> <p>18 BY MS. GOODMAN:</p> <p>19 Q. To your knowledge, did the Army pay</p> <p>20 Google directly for the use of DoubleClick for</p> <p>21 Publishers?</p> <p>22 MR. MCBIRNEY: Objection. Calls for a</p> <p>23 legal conclusion. Lack of foundation.</p> <p>24 THE WITNESS: I don't have any knowledge</p> <p>25 of that.</p>	<p style="text-align: right;">Page 228</p> <p>1 products or services between the Army and Google?</p> <p>2 MR. MCBIRNEY: Objection. Calls for a</p> <p>3 legal conclusion and vague.</p> <p>4 THE WITNESS: I don't have any knowledge</p> <p>5 of money exchanges.</p> <p>6 BY MS. GOODMAN:</p> <p>7 Q. Okay. And when I say "direct," I'm</p> <p>8 using the term that you -- the way that you</p> <p>9 defined it meaning the way -- I think it was the</p> <p>10 closest distance between two points; is that</p> <p>11 right?</p> <p>12 A. I --</p> <p>13 MR. MCBIRNEY: Objection; vague.</p> <p>14 THE WITNESS: I don't have any knowledge</p> <p>15 of any payments or how we make payments or who we</p> <p>16 make payments to.</p> <p>17 BY MS. GOODMAN:</p> <p>18 Q. Okay. Are you of -- aware of any</p> <p>19 agreement between the Army and Google with two</p> <p>20 parties to that agreement?</p> <p>21 MR. MCBIRNEY: Objection. Calls for a</p> <p>22 legal conclusion. Lack of foundation.</p> <p>23 THE WITNESS: I'm not aware of the</p> <p>24 existence of an agreement, if there is one or</p> <p>25 not.</p>
<p style="text-align: right;">Page 227</p> <p>1 BY MS. GOODMAN:</p> <p>2 Q. To your knowledge, did the Army pay</p> <p>3 Google directly for the use of DoubleClick Ad</p> <p>4 Exchange?</p> <p>5 MR. MCBIRNEY: Objection. Calls for a</p> <p>6 legal conclusion. Lack of foundation.</p> <p>7 THE WITNESS: I don't have any knowledge</p> <p>8 of that.</p> <p>9 BY MS. GOODMAN:</p> <p>10 Q. To your knowledge, did the Army pay</p> <p>11 Google directly for the use of AdSense?</p> <p>12 MR. MCBIRNEY: Objection. Calls for a</p> <p>13 legal conclusion. Lack of foundation.</p> <p>14 THE WITNESS: I don't have any knowledge</p> <p>15 of that.</p> <p>16 BY MS. GOODMAN:</p> <p>17 Q. To your knowledge, did the Army pay</p> <p>18 Google directly for the use of AdMob?</p> <p>19 MR. MCBIRNEY: Objection. Calls for a</p> <p>20 legal conclusion. Lack of foundation.</p> <p>21 THE WITNESS: I don't have any knowledge</p> <p>22 of that.</p> <p>23 BY MS. GOODMAN:</p> <p>24 Q. Okay. Do you have any knowledge one way</p> <p>25 or another of any direct exchange of money for</p>	<p style="text-align: right;">Page 229</p> <p>1 BY MS. GOODMAN:</p> <p>2 Q. Okay. Has anybody at your ad agency,</p> <p>3 DDB, ever told you that Google was engaging in</p> <p>4 anticompetitive conduct?</p> <p>5 A. No.</p> <p>6 Q. Did anybody at your ad agency, DDB, ever</p> <p>7 tell you that Google was causing you to pay more</p> <p>8 for digital advertising?</p> <p>9 A. No.</p> <p>10 Q. Did anybody at your ad agency, DDB, ever</p> <p>11 tell that you Google was causing the Army to pay</p> <p>12 more for Open Web Display Advertising?</p> <p>13 A. No.</p> <p>14 Q. Did anybody at OMD ever tell you that</p> <p>15 Google was engaging in anticompetitive conduct?</p> <p>16 A. No.</p> <p>17 Q. Did anyone at OMD ever tell you that</p> <p>18 Google was causing the Army to pay more for</p> <p>19 digital advertising?</p> <p>20 A. No.</p> <p>21 Q. Did anybody at OMD ever tell you that</p> <p>22 Google was causing the Army to pay more for Open</p> <p>23 Web Display Advertising?</p> <p>24 A. No.</p> <p>25 Q. Sitting here today, do you have any</p>

<p style="text-align: right;">Page 230</p> <p>1 concerns that Google has harmed the Army?</p> <p>2 A. I suppose I have some concern by the</p> <p>3 fact that I'm here participating in a deposition</p> <p>4 about it even though the fact that I may not</p> <p>5 understand the extent or the breadth or how that</p> <p>6 harm occurred, as certainly not being an expert</p> <p>7 in law or contracts, but there must be a reason</p> <p>8 I'm here.</p> <p>9 Q. And do you know the reason that you're</p> <p>10 here?</p> <p>11 MR. MCBIRNEY: Objection; vague.</p> <p>12 THE WITNESS: I only know the reason I'm</p> <p>13 here is to provide a deposition and -- and try to</p> <p>14 be helpful in answering accurately as best I can.</p> <p>15 BY MS. GOODMAN:</p> <p>16 Q. Okay. So other than the fact of your</p> <p>17 deposition here -- strike that.</p> <p>18 Is there any other reason beside the</p> <p>19 fact of your being here for a deposition that you</p> <p>20 have any concerns that Google has harmed the</p> <p>21 Army?</p> <p>22 MR. MCBIRNEY: Object to the form of the</p> <p>23 question.</p> <p>24 THE WITNESS: I have not previously</p> <p>25 been provided any information that would cause me</p>	<p style="text-align: right;">Page 232</p> <p>1 provided, which the Army has used as part of your</p> <p>2 overall marketing plan, was that a valuable</p> <p>3 service?</p> <p>4 MR. MCBIRNEY: Objection; foundation.</p> <p>5 THE WITNESS: The service is necessary</p> <p>6 given few options else -- elsewhere.</p> <p>7 BY MS. GOODMAN:</p> <p>8 Q. When you say "few options elsewhere,"</p> <p>9 what do you mean?</p> <p>10 A. There's really not an efficient</p> <p>11 -- there's really not an effective way to</p> <p>12 achieve, for example, reach and search, other</p> <p>13 than must -- using Google. Other competitive</p> <p>14 search engines don't provide the same reach. So</p> <p>15 the Army's not necessarily in a position to not</p> <p>16 use it.</p> <p>17 Q. Does -- with respect to DB</p> <p>18 -- programmatic display ads you have no knowledge</p> <p>19 or awareness however of any other competitors</p> <p>20 that provide such a service; is that correct?</p> <p>21 MR. MCBIRNEY: Object to the form of the</p> <p>22 question.</p> <p>23 THE WITNESS: If there are competitors</p> <p>24 in that particular offering, I -- I'm not aware</p> <p>25 of them by name or that they even exist.</p>
<p style="text-align: right;">Page 231</p> <p>1 concern.</p> <p>2 BY MS. GOODMAN:</p> <p>3 Q. And sitting here today, is it accurate</p> <p>4 to say that Google has, in fact, helped the Army?</p> <p>5 MR. MCBIRNEY: Objection; foundation.</p> <p>6 THE WITNESS: I think it's fair to say</p> <p>7 that Google, like other networks or providers,</p> <p>8 have been engaged with the Army and our</p> <p>9 enterprise to attract potential enlistees</p> <p>10 or officer candidates to the Army.</p> <p>11 BY MS. GOODMAN:</p> <p>12 Q. And in the course of Google's engagement</p> <p>13 with the Army to attract potential enlistees, has</p> <p>14 Google helped the Army --</p> <p>15 MR. MCBIRNEY: Objection; foundation.</p> <p>16 BY MS. GOODMAN:</p> <p>17 Q. -- achieve that goal?</p> <p>18 MR. MCBIRNEY: Sorry. Objection. Asked</p> <p>19 and answered and foundation.</p> <p>20 THE WITNESS: I think Google has</p> <p>21 provided a service that the Army has used as a</p> <p>22 part of our overall marketing plan to attract</p> <p>23 potential new enlistees and officer candidates.</p> <p>24 BY MS. GOODMAN:</p> <p>25 Q. And the service that Google has</p>	<p style="text-align: right;">Page 233</p> <p>1 BY MS. GOODMAN:</p> <p>2 Q. You just don't know one way or another</p> <p>3 if they are competitors; is that correct?</p> <p>4 A. I do not know one way or the other with</p> <p>5 respect to that particular service.</p> <p>6 Q. Okay. Do you use Google yourself?</p> <p>7 A. I do.</p> <p>8 Q. What -- what do you use Google for</p> <p>9 yourself?</p> <p>10 A. Currently for news.</p> <p>11 Q. Do you use Google Search?</p> <p>12 A. I do.</p> <p>13 Q. Do you use Gmail?</p> <p>14 A. I have a Gmail account, but I wouldn't</p> <p>15 say that I use it routinely.</p> <p>16 Q. Do you have a different personal email</p> <p>17 account --</p> <p>18 A. I do.</p> <p>19 Q. -- that you use? Do you use it for work</p> <p>20 purposes?</p> <p>21 A. No.</p> <p>22 Q. Are you aware of any document retention</p> <p>23 policies at AEMO?</p> <p>24 A. Can you be more specific?</p> <p>25 Q. Are you aware of any policy that applies</p>

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<p>1 to the keeping, maintaining or deletion of</p> <p>2 documents at AEMO?</p> <p>3 A. I'm not aware of a specific AEMO policy</p> <p>4 that covers those topics.</p> <p>5 Q. Okay. Are you aware of an Army policy</p> <p>6 that covers those topics?</p> <p>7 A. Not in any specific detail I'm not.</p> <p>8 Q. Okay. Do you know if there are any</p> <p>9 rules or policies that apply to when it is</p> <p>10 appropriate to delete documents at AEMO?</p> <p>11 A. No, I'm not aware of any rules.</p> <p>12 Q. Okay. Do you have any pol -- practice</p> <p>13 of deleting documents?</p> <p>14 A. I will occasionally delete documents.</p> <p>15 Q. For what re -- under what circumstances</p> <p>16 do you delete documents?</p> <p>17 A. Unfortunately, there's too many people</p> <p>18 who are too liberal with the "reply all," and</p> <p>19 I'll have the same message with the message</p> <p>20 thanks. And I'll end up deleting the nonrelevant</p> <p>21 messages that just fill the inbox.</p> <p>22 Q. Any other circumstances that you delete</p> <p>23 documents?</p> <p>24 A. I may go back and look at things that</p> <p>25 are years old from units where I no longer serve</p>	<p>1 deleted any "reply all" emails this year that say</p> <p>2 "thanks"?</p> <p>3 A. That's not my testimony.</p> <p>4 Q. Okay. Have you ever deleted any "reply</p> <p>5 all" emails this year --</p> <p>6 A. I'm sure that I have.</p> <p>7 Q. -- that you've described?</p> <p>8 Okay. Have you ever deleted any emails</p> <p>9 on which you were just a cc this year?</p> <p>10 A. I'm sure that I have.</p> <p>11 Q. What other kinds of documents have you</p> <p>12 deleted this year?</p> <p>13 MR. MCBIRNEY: Objection. Assumes</p> <p>14 facts.</p> <p>15 THE WITNESS: I've described as best as</p> <p>16 I can describe.</p> <p>17 BY MS. GOODMAN:</p> <p>18 Q. Do you have a work-provided mobile</p> <p>19 device?</p> <p>20 A. I do.</p> <p>21 Q. What device do you have that's provided</p> <p>22 by work?</p> <p>23 A. I have an iPhone.</p> <p>24 Q. And how do you use your iPhone for work</p> <p>25 purposes?</p>
Page 235	Page 237
<p>1 or jobs I no longer have and remove emails to</p> <p>2 just free up storage space.</p> <p>3 Q. Do you ever delete documents to free up</p> <p>4 storage -- strike that.</p> <p>5 Do you ever delete documents to free up</p> <p>6 storage space -- space even if the documents</p> <p>7 pertain to your current work?</p> <p>8 MR. MCBIRNEY: Objection; vague.</p> <p>9 THE WITNESS: I may delete an email if</p> <p>10 it wasn't intended for me or if I'm just a cc on</p> <p>11 somebody else's email who thought everyone in the</p> <p>12 office should know about something that wasn't</p> <p>13 relevant to me.</p> <p>14 BY MS. GOODMAN:</p> <p>15 Q. Okay. The circumstances that you have</p> <p>16 described with respect to deleting documents,</p> <p>17 have you prac -- have you engaged in that kind of</p> <p>18 deletion in the year 2023?</p> <p>19 A. No.</p> <p>20 Q. Why not?</p> <p>21 A. I've generally set for myself a</p> <p>22 couple-of-year policy of looking back. And,</p> <p>23 frankly, sometimes I just forget and haven't done</p> <p>24 it.</p> <p>25 Q. So it's your testimony that you haven't</p>	<p>1 A. I use it for phone calls, for text</p> <p>2 and for WhatsApp communication for daily status</p> <p>3 report in the sense of our team reports, hey, I'm</p> <p>4 present for duty today; I'm TDY today; I'm on</p> <p>5 leave today.</p> <p>6 Q. How do you use text messaging at work?</p> <p>7 A. Infrequently.</p> <p>8 Q. And when you use it infrequently, what</p> <p>9 do you -- for what purpose do you use it?</p> <p>10 A. For quick exchanges. Questions. Are</p> <p>11 you available for something? Are you going to be</p> <p>12 in the office today? Basic information between</p> <p>13 colleagues.</p> <p>14 Q. Have you had occasion to look back at</p> <p>15 your text messages this year in order to provide</p> <p>16 them to attorneys at the Department of Justice?</p> <p>17 A. No. I didn't look back at them.</p> <p>18 Q. Nobody's asked you to go look at your</p> <p>19 text messages for anything potentially relevant</p> <p>20 to this lawsuit. Is that accurate?</p> <p>21 MR. MCBIRNEY: I'm going to object to</p> <p>22 the extent this calls for protected</p> <p>23 attorney-client privileged. If you can answer</p> <p>24 without disclosing privileged communications, you</p> <p>25 may do so. Otherwise, I instruct the witness not</p>

<p style="text-align: right;">Page 246</p> <p>1 for information relevant to this lawsuit?</p> <p>2 A. I did not.</p> <p>3 MS. GOODMAN: I reserve the remainder of</p> <p>4 my time for this deposition based on the improper</p> <p>5 privilege assertions made at the outset of the</p> <p>6 deposition. So I close the dep -- I'm holding</p> <p>7 the deposition open.</p> <p>8 MR. MCBIRNEY: Can I get a time check?</p> <p>9 THE VIDEOGRAPHER: We are at 5:55</p> <p>10 minutes.</p> <p>11 MR. MCBIRNEY: Okay. The government</p> <p>12 does not agree with your position that the</p> <p>13 deposition should remain open, but we understand</p> <p>14 your position.</p> <p>15 MS. GOODMAN: Okay.</p> <p>16 MR. MCBIRNEY: Off the record.</p> <p>17 THE VIDEOGRAPHER: Anything else for the</p> <p>18 record?</p> <p>19 MS. GOODMAN: Thank you, Colonel.</p> <p>20 THE WITNESS: Thank you very much.</p> <p>21 THE VIDEOGRAPHER: This marks the end of</p> <p>22 the deposition of Colonel John Horning. We're</p> <p>23 going off the record at 1753.</p> <p>24 (Deposition concluded -- 5:53 p.m.)</p> <p>25</p>	<p style="text-align: right;">Page 248</p> <p>1 Jimmy McBirney, Esq.</p> <p>2 jimmy.mcbirney@usdoj.gov</p> <p>3 August 21, 2023</p> <p>4 RE: United States, Et Al v. Google, LLC</p> <p>5 8/18/2023, John Horning (#6060378)</p> <p>6 The above-referenced transcript is available for</p> <p>7 review.</p> <p>8 Within the applicable timeframe, the witness should</p> <p>9 read the testimony to verify its accuracy. If there are</p> <p>10 any changes, the witness should note those with the</p> <p>11 reason, on the attached Errata Sheet.</p> <p>12 The witness should sign the Acknowledgment of</p> <p>13 Deponent and Errata and return to the deposing attorney.</p> <p>14 Copies should be sent to all counsel, and to Veritext at</p> <p>15 erratas-cs@veritext.com</p> <p>16</p> <p>17 Return completed errata within 30 days from</p> <p>18 receipt of testimony.</p> <p>19 If the witness fails to do so within the time</p> <p>20 allotted, the transcript may be used as if signed.</p> <p>21</p> <p>22 Yours,</p> <p>23 Veritext Legal Solutions</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 247</p> <p>1 C E R T I F I C A T E</p> <p>2</p> <p>3 I do hereby certify that I am a Notary</p> <p>4 Public in good standing, that the aforesaid</p> <p>5 testimony was taken before me, pursuant to</p> <p>6 notice, at the time and place indicated; that</p> <p>7 said deponent was by me duly sworn to tell the</p> <p>8 truth, the whole truth, and nothing but the</p> <p>9 truth; that the testimony of said deponent was</p> <p>10 correctly recorded in machine shorthand by me and</p> <p>11 thereafter transcribed under my supervision with</p> <p>12 computer-aided transcription; that the deposition</p> <p>13 is a true and correct record of the testimony</p> <p>14 given by the witness; and that I am neither of</p> <p>15 counsel nor kin to any party in said action, nor</p> <p>16 interested in the outcome thereof.</p> <p>17</p> <p>18 WITNESS my hand and official seal this</p> <p>19 21st day of</p> <p>20 </p> <p>21</p> <p>22 Notary Public</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 249</p> <p>1 United States, Et Al v. Google, LLC</p> <p>2 John Horning (#6060378)</p> <p>3 E R R A T A S H E E T</p> <p>4 PAGE____ LINE____ CHANGE_____</p> <p>5 _____</p> <p>6 REASON_____</p> <p>7 PAGE____ LINE____ CHANGE_____</p> <p>8 _____</p> <p>9 REASON_____</p> <p>10 PAGE____ LINE____ CHANGE_____</p> <p>11 _____</p> <p>12 REASON_____</p> <p>13 PAGE____ LINE____ CHANGE_____</p> <p>14 _____</p> <p>15 REASON_____</p> <p>16 PAGE____ LINE____ CHANGE_____</p> <p>17 _____</p> <p>18 REASON_____</p> <p>19 PAGE____ LINE____ CHANGE_____</p> <p>20 _____</p> <p>21 REASON_____</p> <p>22 _____</p> <p>23 _____</p> <p>24 John Horning Date _____</p> <p>25</p>

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1 United States, Et Al v. Google, LLC

2 John Horning (#6060378)

3 ACKNOWLEDGEMENT OF DEPONENT

4 I, John Horning, do hereby declare that I

5 have read the foregoing transcript, I have made any

6 corrections, additions, or changes I deemed necessary as

7 noted above to be appended hereto, and that the same is

8 a true, correct and complete transcript of the testimony

9 given by me.

10

11 _____

12 John Horning Date

13 *If notary is required

14 SUBSCRIBED AND SWORN TO BEFORE ME THIS

15 _____ DAY OF _____, 20____.

16

17

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19 _____
NOTARY PUBLIC

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

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COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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